

UNITED STATES DISTRICT COURT FILED
CLERKS OFFICE
DISTRICT OF MASSACHUSETTS

2005 FEB -2 P 3:28

COY PHELPS

PETITIONER

-v-

DAVID WILSON, et al

RESPONDENT(S)

CASE NO: US DISTRICT-2005-0003-GAO
DISTRICT OF MASS.

MOTION TO
AMEND THE COMPLAINT

NONE OF THE RESPONDENTS IN THIS CASE HAVE BEEN SERVED WITH A SUMMONS OR A COPY OF THE COMPLAINT, SO THE ABOVE PETITIONER REQUEST THIS COURTS PERMISSION TO AMEND THE COMPLAINT TO ADD INFORMATION NOT KNOWN BEFORE AND TO ATTEMPT TO MAKE THE COMPLAINT BETTER ORGANIZED WITHOUT CHANGING THE MERITS.

THE PETITIONER IS ADDING THE RESPONDENT J. SONNECA AND ADDING THE ADMINISTRATIVE REMEDY FILE NUMBERS TO THE EXHAUSTION OF ADMINISTRATIVE REMEDY SECTION (281333 - CHALLENGING ALL BOP RULES, AND 267518 - CHALLENGING ALL ACTS, ACTIONS, INSTRUCTIONS, AND OMISSIONS OF BOP EMPLOYEES)

A COPY OF THE AMENDED COMPLAINT IS ATTACHED

DATE: 1-30-05

COY PHELPS IN PROSE

COY PHELPS 74872-011

FMC- DEVENS

42 PATTON ROAD

P.O. BOX 879

AYER, MA C1432

05-40003

CASE NUMBER

FILED

IN CLERK'S OFFICE

ON

ORIGINAL
FILED
2/2/05

UNITED STATES DISTRICT COURT FED - 2 P 3:28 IV

DISTRICT OF MASSACHUSETTS

U.S. DISTRICT COURT
DISTRICT OF MASS.

COY PHELPS

PETITIONER

-v-

05-40003

DAVID WINN, AND MIKE BOLLINGER, AND

JAMES DOLD, AND S. TITOMPSON, AND

S. HARVEY, AND B. POTOLICCHIO, AND

J. DAVIS, AND J. FLETCHER, AND

W. BLAZON, AND H. HAAS, K. LEONARD, AND

J. SONNEGA, et.al

RESPONDENTS

FIRST AMENDED

PERSONAL INJURY AND A CIVIL RIGHTS

COMPLAINT

DATE: 1-30-2005

COY PHELPS

IN PRO SE

COY PHELPS 78872-011

FMC-DEVENS

P.O. BOX 879

AYER, MASSACHUSETTS

C1432

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COY PHELPS

PETITIONER

-v-

CASE NO: 05-40003-GAO

A

DAVID WINN, MIKE BELLINGER,
 JAMES DOLD, S. THOMPSON, S. HARVEY,
 B. POTOLICCHIO, J. FLETCHER,
 J. DAVIS, W. BLAZON, H. HAAS,
 K. LEONARD, J. SONNESEN, ERIC.

RESPONDENT(S)

PERSONAL INJURY
 AND A
 CIVIL RIGHTS
 COMPLAINT
 (A BIVENS ACTION)

I

JURISDICTION AND AUTHORITY

THIS COURT HAS JURISDICTION TO REVIEW THIS COMPLAINT AND TO GRANT
 RELIEF AND REMEDY UNDER BIVEN V SIX UNKNOWN NAMED AGENTS OF THE
FEDERAL BUREAU OF NARCOTICS, 1971, 403 U.S. 388, 29 LED 2d 619,
 91 S. CT 1999, AND 5 USC 701-706 (JUDICIAL REVIEW OF AGENCY ACTIONS),
 28 USC 1331 (FEDERAL QUESTION), 28 USC 1343 (CIVIL RIGHTS VINDICATION),
 28 USC 1346 (FEDERAL TORTS), 28 USC 2201-2202 (DECLARATORY JUDGMENT),
 28 USC 2674-2680 (US LIABILITY), 42 USC 233 (PUBLIC HEALTH SERVICE), AND
 42 USC 1988 (COMMON LAW-ATTORNEY FEES), AND THE AMERICANS WITH
 DISABILITIES ACT (42 USC 12101), RELIGIOUS FREEDOM ACTS (42 USC 2000bb - 2000cc),
 AND FREEDOM OF INFORMATION/PRIVACY ACT (5 USC 552a(g)(1))

II

EXHAUSTION OF ADMINISTRATIVE REMEDIES

THE PETITIONER (HEREAFTER PITCHPS) HAS EXHAUSTED ADMINISTRATIVE REMEDIES

28,333 (ALL ACTIONS, ACD, IN ACTIONS, AND COMPLAINTS) 26,7518 (CIVIL ACTIONS & RELATED).

III

PARTIES

PETITIONER:

THE PETITIONER IN THIS ACTION IS COY PITCHPS 78872-011 AND HAS
A MAILING ADDRESS OF FMC-DEVENS, 42 PATTEN ROAD, P.O. BOX 879,
AYER, MASSACHUSETTS, 01432;

RESPONDENTS:

1 ALL OF THE RESPONDENTS ARE SUED IN THEIR PERSONAL AND INDIVIDUAL
CAPACITIES;

RESPONDENTS DAVID WINN, MIKE BOLLINGER, JAMES BOLD, S. HARVEY, K. LEOPARD,
J. FLETCHER, B. POTRICKICH, J. DAVIS, W. BLAZIN, AND J. SONNEGA ARE EMPLOYED AT
THE U.S. BUREAU OF PRISONS AND WORK AT THE FEDERAL MEDICAL CENTER (FMC)
AT DEVENS, MASSACHUSETTS AND HAVE A BUSINESS MAILING ADDRESS OF 42
PATTEN ROAD, P.O. BOX 880, AYER, MASSACHUSETTS, 01432.

RESPONDENT S. THOMPSON IS EMPLOYED BY THE U.S. PUBLIC HEALTH SERVICE
AND ASSIGNED TO DUTY IN THE U.S. BUREAU OF PRISONS AND WORKS AT FMC-
DEVENS AND HAS A MAILING ADDRESS OF 42 PATTEN ROAD, P.O. BOX 880,
AYER, MASSACHUSETTS, 01432.

STATEMENT OF THE ISSUES

1. IS PHELPS LAWFULLY UNDER THE JURISDICTION OF 18 USC 4243?
2. DID THE U.S. ATTORNEY GENERAL MISAPPLY THE FEDERAL MENTAL HEALTH LAWS?
3. DOES THE U.S. BUREAU OF PRISONS HAVE LAWFUL CUSTODY OF PHELPS OR ANY OTHER INMATE COMMITTED UNDER 18 USC 4243 (INSANITY ACQUITTEE) OR 18 USC 4246 (CERTAIN CIVIL COMMITMENTS)?
4. DID THE U.S. ATTORNEY GENERAL VIOLATE SUB SECTION (i) OF 18 USC 4247 BY PLACING PHELPS IN FEDERAL CONFINEMENT INSTEAD OF STATE, LOCAL, OR PRIVATE CONFINEMENT?
5. DID THE EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS ACT IN COORDINATED ABSENCE OF ALL LAWFUL JURISDICTION AND AUTHORITY?
6. CAN A UNCONVICTED CIVIL MENTAL PATIENT (PHELPS) LAWFULLY SUFFER THE SAME ENVIRONMENT, ATMOSPHERE, CONDITIONS, DISCIPLINES, PUNITIVE MEASURES, CARE, AND TREATMENT AS CONVICTED AND SENTENCED CRIMINAL PRISONERS WITHOUT VIOLATING FEDERAL LAW, THE U.S. CONSTITUTION, AND U.S. v. JONES, 1983, 463 U.S. 354?
7. ARE THE EMPLOYEES OF THE U.S. PUBLIC HEALTH SERVICE, OR THE EMPLOYEES OF THE U.S. BUREAU OF PRISONS RESPONSIBLE FOR THE DAY-TO-DAY DIRECT CARE AND TREATMENT OF CIVIL INMATES COMMITTED UNDER 18 USC 4243 OR 18 USC 4246 (SUBAUSE 18 USC 4042, 18 USC 4247(i), AND 28 CFR C.95-0.96)?
8. HAVE THE RESPONDENTS COMPLIED WITH THE TERMS OF 18 USC 4243 AND 18 USC 4247(a) AND (i)?
9. CAN U.S. BUREAU OF PRISON RULES AND REGULATIONS ESTABLISHED FOR CONVICTED PRISONERS BE LAWFULLY APPLIED TO UNCONVICTED CIVIL MENTAL PATIENTS?
10. DID THE B.O.P. STAFF, EMPLOYEES, AND MEMBERS DRIVE, DENT, AND VIOLATE THE CONSTITUTIONAL, STATUTORY, CIVIL, AND COMMON LAW GUARANTEED, FREEDOMS, LIBERTIES, RIGHTS, PRIVILEGES, IMMUNITIES, PROTECTIONS, AND SIEGEARDS OF PHELPS?
11. HAVE THE BOP STAFF USED PROFESSIONAL JUDGMENT AS REQUIRED BY YOUNGBLOOD v. REED, 5132, 457 U.S. 307?

DO PHELPS SUFFER IRREPARABLE PHYSICAL, MENTAL, EMOTIONAL, SPIRITUAL, AND LEGAL LOSS, HARM, INJURY, AGONIA, PAIN, AND SUFFERING BECAUSE OF THE ACTS, ACTIONS, INACCTIONS, AND OMISSIONS OF THE U.S. ATTORNEY GENERAL AND THE BOP STAFF AND EMPLOYEES?

II

BACKGROUND

DURING THE CULTURAL, SOCIAL, AND RACIAL UPHEAVAL AND REVOLUTION OF THE 1960'S, 1970'S, AND 1980'S, PHELPS WAS CONVERTED TO THE NAZI RELIGION AND INCORPORATED A CHURCH IN THE STATE OF CALIFORNIA AND BEGAN TEACHING THE TENETS AND BELIEFS OF HIS RELIGION AS PRESENTED IN THE SCRIPTURES OF THE CHRISTIAN HOLY BIBLE. HE PROSELYTIZED RACIAL PURITY AND RACIAL SEGREGATION AS WELL AS WHITE SUPREMACY AS THE FUNDAMENTAL COMMANDMENTS OF GOD. HE IDENTIFIED (AS DID JESUS) THE JEWS AS BEING DEVILS FROM HELL AND ALL NON WHITES AS BEING THE RESULTS OF MIXBREEDING OF SATAN WITH THE MONKEY KINGDOM AND EVOLUTONIZING BY GEOGRAPHIC ADAPTATION. HE RECEIVED HUNDREDS OF Death THREATS FROM JEWS AND OTHERS AND SUFFERED ASSAULTS AND PROPERTY LOSS, BECAUSE OF HIS SINCERELY HELD SHARED RELIGIOUS BELIEFS.

IN 1989 PHELPS WAS ARRESTED ON CHARGES OF BOMBING JEW SYNAGOGUES, THE HOMES OF JEW RABBIS, AND SCHOOLS THAT TAUGHT BLACK SUPREMACY.

PHELPS CLAIMED TO BE INNOCENT AND THAT HE WAS BEING FRAMEO IN A INTERNATIONAL JEW CONSPIRACY. EVERYONE BELIEVED THIS TO BE A DELUSION THAT QUALIFIED PHELPS FOR A INSANITY PLEA.

IN JULY OF 1986 PHELPS WAS FOUND NOT GUILTY BY REASON OF INSANITY (NGRI).

AND WAS COMMITTED TO THE CUSTODY OF THE U.S. ATTORNEY GENERAL PURSUANT TO 18 USC 4243(e) WHO, IN TURN, PLACED PHELPS IN THE CUSTODY OF THE DIRECTOR OF THE U.S. BUREAU OF PRISONS WHO, IN TURN, DELEGATED HIS AUTHORITY TO VARIOUS WARDENS OF VARIOUS PRISONS IN THE FEDERAL SYSTEM.

PHELPS WAS UNTHKEN IN HIS INTERNATIONAL CONSPIRACY CLAIM AND THIS "DELUSION" KEPT HIM INCARCERATED.

THEN, SEVEN YEARS AFTER HIS INCARCERATION BEGAN, THE DISTRICT ATTORNEY OF SAN FRANCISCO, CALIFORNIA RAIDED THE OFFICES OF A JEW ORGANIZATION (ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH) AND SEIZED ALL RECORDS AND DOCUMENTS. IN THE SEIZED RECORDS WAS A DOSSIER ON PHELPS THAT SHOWED PHELPS WAS ACTUALLY INNOCENT OF THE CRIMES AND THAT HIS CLAIM OF BEING FRAMED IN A INTERNATIONAL CONSPIRACY WAS ACTUALLY TRUE AND WAS NEVER A DELUSION AT ALL.

THE DISTRICT ATTORNEY NOTIFIED THE DEPARTMENT OF JUSTICE (DOJ) AND THE U.S. BUREAU OF PRISONS OF THE DISCOVERED EVIDENCE.

NEITHER THE DOJ OR THE BOP MADE ANY EFFORT TO EFACT THE RELEASE OF PHELPS BECAUSE THEY CONSIDERED THE RELIGIOUS TEACHINGS OF PHELPS TO BE POLITICALLY INCORRECT AND DANGEROUS.

PHELPS MADE REPEATED ATTEMPTS TO FIND RELIEF FROM THE COURTS, BUT EVERY TIME THE COURT WAS READY TO RULE ON THE ISSUE, THE BOP WOULD TRANSFER PHELPS TO ANOTHER JUDICIAL CIRCUIT AND THEN RUSH INTO COURT WITH A MOTION TO DISMISS ON THE GROUNDS OF MOOTNESS. AFTER THE THIRD TIME, THE 8TH CIRCUIT SAID "WE NOTE THAT PHELPS HAS BEEN TRANSFERRED TWICE BEFORE TO MOOT THIS ISSUE. WE HOPE THIS IS NOT A PATTERN." (PHELPS V. U.S. FEDERAL GOVERNMENT, SC1994, 15 F3d 735.) TIME HAS MADE NO CHANGE.

PHELPS HAS BEEN TRANSFERRED REPEATEDLY TO MOOT THE ISSUE OF FALSE IMPRISONMENT (RECENTLY) AND THE 5TH CIRCUIT REFERRED IT IN A PUBLISHED OPINION. IN ADDITION A BCP Psychiatrist (DR. STEPHEN ZEID) AND A BCP Psychologist (DR. MARIL HAZELWAG) REPORTED TO THE COURT THAT THEY HAD BEEN (AND ARE) TOLD THE EVIDENCE THAT PHELPS WAS ACTUALLY INNOCENT AND THAT NOVEL BUREAU MEMBERSHIP WAS DUE TO THE CASE AND MADE FOR 14, REFERRED. IN 2004, PHELPS WAS TRANSFERRED TO FMC-BEVINS WHICH HE IS TODAY.

FACTS

1. PHELPS IS NOT UNDER THE JURISDICTION OF 18 USC 4243;

- (A) THE STATUTE REQUIRES A CRIME — A VIOLATION OF A CRIMINAL LAW;
- (B) THE GOVERNMENT HAS ALREADY ADMITTED (IN OPEN COURT) THAT PHELPS
 - (A) DID NOT COMMIT A CRIME;
 - (B) DID NOT VIOLATE ANY LAW;
 - (C) DID NOT VIOLATE ANY KIND OF PROBATION OR RELEASE CONDITION;
 - (D) DID NOT VIOLATE ANY KIND OF COURT ORDER;
 - (E) DID NOT CONSPIRE WITH ANYONE TO COMMIT A CRIME;
 - (F) DID NOT ASSOCIATE WITH ANYONE ENGAGED IN CRIMINAL ACTIVITY.
- (C) THE GOVERNMENT KNOWS THAT PHELPS CANNOT LEGITIMATELY BE SUBJECT TO 4243
- (C) 18 USC 4001(a) STATES THAT NO CITIZEN WILL BE DEPTHELD, OR IMPRISONED, UNLESS HE HAS VIOLATED A LAW;
- (SINCE 4243 REQUIRES A CRIME AND PHELPS DID NOT COMMIT A CRIME, IT IS NOT UNDER THE JURISDICTION OF THAT STATUTE AND THE PROVISIONS AND TERMS OF THE STATUTE DOES NOT APPLY TO HIM)
- (D) THE STATUTE MAKES THE U.S. ATTORNEY GENERAL THE ONE RESPONSIBLE TO OVERSEE THE OPERATIONS OF THE PROVISIONS OF THE STATUTE;

2. THE FEDERAL GOVERNMENT DOES NOT HAVE A FEDERAL CIVIL HOSPITAL IN DICTATE TO CONFINING FEDERAL INSANITY ADJUDICATES, AS THE STATUTE REQUIRES, BUT IT DESPERATELY NEEDS ONE (FOUCHA V LOUISIANA, 1994, 504 U.S. 71; MACCARTHA V CICcone, W.D. Mo. 1969, 305 F.Supp. 175; JONES V HARRIS, 8C1964, 339 F.2d 585) SEE DAVIS V RUSTURE (C. C. C., 264 F.2d 864) (10)

(A) THE GOVERNMENT CONTINUALLY HOLD THAT THE FEDERAL MEDICAL CENTERS IN THE U.S. BUREAU OF PRISON SYSTEM ARE PRISONS, NOT HOSPITALS, AND THOSE CONFINED THEREIN SUFFER INCARCERATION, NOT HOSPITALIZATION (WILLIAMS V RICHARDSON, 8C1973, 481 F.2d 358; US V THACKER, D.C. 1983, 725 F.Supp. 616) REGARDLESS OF THE LABEL (VAN SICKLES V CICcone, 8C1976, 437 F.2d 884) BECAUSE, REGARDLESS OF THE NAME (MEDICAL CENTER), IT OPERATES, FUNCTIONS, AND IS ADMINISTERED AS A PRISON BY BOP STAFF TRAINED IN PENALogy (RAWLES V US, 8C1964, 331 F.2d 21) WHICH A FACILITY LOCKS PEOPLE IN CELLS, RESTRICT PRIVILEGES, DISCIPLINE AND PUNISH PEOPLE FOR INFRACTIONS OF RIGIDLY ENFORCED RULES, REQUIRES OBSERVANCE AND SUBMISSION TO AUTHORITY, AND CONDUCTS ACTIVITIES BEHIND WALLS OR WITH SECURITY FORCES, THUS THE FACILITY IS A PRISON - NOT A HOSPITAL (COVINGTON J. HARRIS, D.C. App. 1969, 419 F.2d 617). IF THE FACILITY IS ADMINISTERED BY THE U.S. ATTORNEY GENERAL AND NOT THE SECRETARY OF THE DEPTHS, THEN IT IS A PRISON - NOT A HOSPITAL (FROST V CICcone, W.D. Mo. 1970, 315 F.Supp. 899)

(B) EVEN IF THE FEDERAL GOVERNMENT CONSTRUCTED A PHYSICAL BUILDING AND PUT A SIGN ON IT READING "CIVIL HOSPITAL", THE GOVERNMENT STILL COULD NOT CONFINING PATIENTS IN IT, BECAUSE THERE ARE NO PROVISIONS IN THE LAW THAT ALLOWS FOR FEDERAL CONFINEMENT.

(i) FIRST, CONGRESS MUST MODIFY THE STATUTE TO INCLUDE FEDERAL CONFINEMENT, THEN IT MUST CONSTRUCT A PHYSICAL CIVIL HOSPITAL, AND THEN STAFF IT WITH NON-BUREAU OF PRISON EMPLOYEES - TO MEET THE REQUIREMENTS OF 18 USC 4243, 4247, AND SUPREME COURT LAW.

3. THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION, MADE CLEARLY FRACASSED INTERPRETATIONS AND CONCLUSIONS OF LAW AND FACT, AND MISAPPLIED THE FEDERAL MENTAL HEALTH LAWS:

- (A) UNDER SUBSECTION (e) OF 18 USC 4243, THE ATTORNEY GENERAL HAS ONLY 3 OPTIONS:
 - (1) RELEASE THE INSANITY DEFENSEE TO THE COMMUNITY UNCONDITIONALLY
 - (2) CAUSE AN APPROPRIATE STATE OFFICIAL TO ASSUME RESPONSIBILITY OF THE ACCUSED
 - (3) UNDER 18 USC 4247(i) THE ATTORNEY GENERAL MAY PLEAD IT STATE COURT FOR A STATE CIVIL COMMITMENT INTO A STATE MENTAL HOSPITAL PURSUANT TO STATE LAW
- (B) IF THE ATTORNEY GENERAL CHOOSES TO "HOSPITALIZE" THE ACCUSED, HE MUST —
 - (1) PUT PHELPS IN THE CUSTODY OF THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)
 - (A) IT IS THE SECRETARY WHO IMPLEMENTS THE PROVISIONS OF THE FEDERAL MENTAL HEALTH LAWS (18 USC 4247(i)(D))
 - (2) THE ATTORNEY GENERAL MISAPPLIED THE LAW AND PUT PHELPS IN THE CUSTODY OF THE DIRECTOR OF THE U.S. BUREAU OF PRISONS
 - IF PHELPS WAS A CONVICTED PRISONER WHO HAD BEEN FOUND GUILTY AND SENTENCED TO A TERM OF PUNISHMENT
 - (3) HE MUST MAKE SURE THE FACILITY HAS BEEN APPROVED AND CERTIFIED BY THE SECRETARY OF THE DHHS AS BEING A HOSPITAL;
 - (A) THE SECRETARY HAS NEVER APPROVED ANY B.C.P. FACILITY. WHY?
BECAUSE IT WOULD BE COUNTERFactual. ALL THE B.C.P. FACILITIES ARE CONSTRUCTED UNDER PUBLIC LAW AS PRISONS AND ARE ACCREDITED AS PRISONS. THEY CAN'T BE BOTH HOSPITALS AND PRISONS AND OPERATE ONLY AS A PRISON.

(3) HE MUST MAKE SURE THE FACILITY HAS A REHABILITATION PROGRAM THAT MEETS THE STANDARDS OF 18 USC 4247(a) AND WHICH HAS BEEN APPROVED BY THE SECRETARY OF THE DOLTS (18 USC 4247(i)(c))

(4) NONE OF THE BOP FACILITIES MEET THE REHABILITATION STANDARDS, AND NO REHABILITATION PROGRAM HAS EVER BEEN APPROVED BY THE SECRETARY OF THE DOLTS

(5) IF THE STATE COURT WILL NOT COMMIT THE ACQUITTEE TO A STATE MENTAL HOSPITAL PURSUANT TO STATE LAWS, THEN THE ATTORNEY GENERAL HAS ONLY 3 OTHER OPTIONS IF HE STILL CHOOSES TO "HOSPITALIZE" THE ACQUITTEE. HE CAN —

(1) ENTER INTO A CONTRACT WITH A STATE (OR POLITICAL SUB-DIVISION)

(2) NOTE THAT THE ATTORNEY GENERAL CAN STILL HOSPITALIZE PHLEPS IN A STATE MENTAL HOSPITAL BY CONTRACT - BUT NOW HE IS PAYING THE BILLS

(3) ENTER INTO A CONTRACT WITH A PRIVATE AGENCY

(18 USC 4247(i)(3)) THESE ARE HIS ONLY OPTIONS

THERE ARE NO OPTIONS - NO PROVISION - FOR FEDERAL CONFINEMENT

4. THE U. S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY OF PHLEPS:

(A) THERE ARE NO PROVISIONS IN 18 USC 4243 OR 18 USC 4247 FOR FEDERAL CONFINEMENT

(B) THE U. S. ATTORNEY GENERAL IS REQUIRED TO PUT PHLEPS IN THE CUSTODY OF THE SECRETARY OF THE DOLTS - NOT THE U. S. BUREAU OF PRISONS

(C) UNDER 18 USC 4042 (AND 28 CFR 0.95 - 0.96) THE B. O. P. ONLY HAS AUTHORITY OVER PENAL AND CORRECTIONAL INSTITUTIONS (NOT HOSPITALS)

(1) 18 USC 4243 REQUIRES PHLEPS TO BE "HOSPITALIZED."

(b) 18 USC 4042 (AND 28 CFR 0.95 - 0.96) GIVES THE BUREAU OF PRISONS AUTHORITY ONLY OVER THOSE CHARGED WITH CRIMES AND THOSE CONVICTED OF CRIMES (NOT CIVIL COMMITMENTS / INSANITY ACQUITTEES);

(1) THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT ALLOWS, OR AUTHORIZES, FEDERAL CONFINEMENT FOR INSANITY ACQUITTEES;

(A) NO FEDERAL AGENCY CAN ENACT A RULE OR REGULATION GIVING ITSELF THAT AUTHORITY;

(B) EVEN CONGRESS CANNOT MAKE A FEDERAL REGULATION WITHOUT A STATUTE AUTHORIZING THAT REGULATION; *

(C) THE BUREAU OF PRISONS HAS SEVERAL RULES AND REGULATIONS ESTABLISHED WITHOUT STATUTORY AUTHORITY;

(1) SOME CURRENT RULES AND REGULATIONS WERE ESTABLISHED ON STATUTORY AUTHORITY WHICH HAS BEEN REPEALED OR ABRODAGED;

(D) 28 CFR 551.101(b)(2) AND BUREAU OF PRISON POLICY 7331.04 ALLOWING A CIVIL COMMITMENT / INSANITY ACQUITTEE TO BE TREATED AS A CONVICTED AND SENTENCED PRISONER VIOLATES THE SCHEME AND INTENT OF 18 USC 4243 AND 4246 AND VIOLATES U.S. v. JONES, 1983, 463 US 354 n- 369 (INSANITY ACQUITTEES CANNOT BE TREATED AS CONVICTED PRISONERS) SEE U.S. v. SMITH, 1999, 174 F3d 892 (PRINCIPLES OF CRIMINAL SENTENCING DO NOT APPLY TO INSANITY ACQUITTEES)

* EVEN THE COURTS CANNOT ACT WITHOUT STATUTORY AUTHORITY (US v. SOTELG, 704 F2d, 94 F3d 1037 AT 1040)

5. ALL OF THE STAFF, EMPLOYEES, PERSONNEL, AND MEMBERS (FULL TIME, PART TIME, CONSULTS, VOLUNTEERS, AND CONTRACTED WORKERS) OF THE U.S. BUREAU OF PRISONS ARE IN CLEAR ABSENCE OF ALL LAWFUL JURISDICTION AND AUTHORITY IN THE CUSTODY, CONFINEMENT, CARE, AND TREATMENT OF (AND PROVIDING SERVICES FOR) INSANITY ACQUITTEES AND OTHER CIVIL COMMITMENTS (18 USC 4243 AND 18 USC 4246)

(A) THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS ALLOWING, OR AUTHORIZING, FEDERAL CONFINEMENT:

(i) WHEN A STATUTE IS SILENT ON A ISSUE, OR IT HAS NO PROVISION, THERE IS A CORRESPONDING LACK OF AUTHORITY (KEENE V US, 1993, 508 US 200, BPP V RESOLUTION, 1994, 511 US 531)

(A) SINCE 18 USC 4243 AND 18 USC 4247 DOES NOT AUTHORIZE THE B.O.P. TO HAVE CUSTODY OF PHELPS, THE EMPLOYEES OF THE B.O.P. HAVE NO LAWFUL AUTHORITY OVER PHELPS. THEY CANNOT DO ANYTHING TO PHELPS OR FOR PHELPS WITHOUT VIOLATING HIS RIGHTS

(B) THE BOP MEMBERS KNOW (AND UNDERSTAND) THE LEGAL DIFFERENCE BETWEEN A CIVIL COMMITMENT AND A CRIMINAL SENTENCE, AND THE LEGAL DIFFERENCE BETWEEN A UNCONVICTED CIVIL PATIENT AND A CONVICTED CRIMINAL PRISONER BUT REFUSE TO TREAT THEM DIFFERENTLY

(i) THE BOP TREATS A UNCONVICTED CIVIL PATIENT AS A CONVICTED AND SENTENCED PRISONER BY RULES AND REGULATIONS, BUT IN CUSTOM AND PRACTICE, THE UNCONVICTED CIVIL MENTAL PATIENT IS TREATED FAR WORSE THAN SENTENCED PRISONERS AND WITH GREATER DISPARITY AND INTOLERANCE.

(A) EACH TIME A GROUP OF PEOPLE VISITS THE FACILITIES TO INVESTIGATE COMPLAINTS AND CONDITIONS, THE MENTAL HEALTH UNITS AND PATIENTS ARE AVOIDED

(i) ON OCCASION WHEN A MENTAL PATIENT DOES COMPLAIN, HE IS PUNISHED FOR COMPLAINING (CORRECTIVE THHERAPY)

6. THE COURTS ADMIT TO A DISTINCTION BETWEEN CIVIL COMMITMENTS AND CRIMINAL SENTENCES, AND BETWEEN UNCONVICTED AND CONVICTED, AND BETWEEN A UNCONVICTED CIVIL PATIENT AND A CONVICTED CRIMINAL PRISONER:

- (A) PAIGE V TURLEY, 462 F.2d, 101, F.3d 1136 at 1140 (PRISONER LIBERTATION ACT DOES NOT APPLY TO CIVIL COMMITMENTS); KING V GREENBLATT, D.MASS 1991, 53 F.Supp.2d 1176 at 1188 (SAME)
- (B) GRAVES V KUEHLER, D.D.C. 1985, 607 F.Supp. 1186 (DC COURT HAS EVER HELD THAT A CIVIL COMMITMENT IS THE SAME AS A CRIMINAL SENTENCE OR THAT INCARCERATION AND THE SAME AS INCARCERATION) AWBRIGHT V CHURCH, 101912, 975 F.2d 343 (SAME)
- (C) COLL V HULAND, D.N.J. 1976, 411 F.Supp. 705 (THE BASIS FOR INCARCERATION IS TO PROTECT THE GOVERNMENT THE BASIS FOR A CIVIL COMMITMENT IS TO TREAT THE ILL)
- (D) U.S. V JAHIG, 701999, 174 F.3d 892 (THE PRINCIPLES OF CRIMINAL SENTENCING DOES NOT APPLY TO INSANITY ACQUITTEES)
- (E) U.S. V. JONES, 1983, 463 F.3d 554 (INSANITY ACQUITTEES CANNOT BE TREATED AS CONVICTED PRISONERS)
- (F) JENNINGS V N.Y.S. MENTAL HEALTH, 3 D.N.Y. 1992, 186 F.Supp. 326 (CRIMINAL CONVICTION IS NOT THE SAME AS A CIVIL COMMITMENT) WITTERN V HARVEY, D.C. 1979, 472 F.Supp. 1061 (SAME)
- (G) SCOTT V MARTIN, 1986, 467 U.S. 253 (CONFINING THE MENTALLY ILL IN A PRISON ENVIRONMENT IS IMPERMISSIBLE) BUERLEN V TULLER, 1960, 304 U.S. 479 (SAME); FRONET V BURKHARD, M.D. 1973, 428 F.Supp. 1351 (SAME); LYNCH V BARKLEY, M.D. 1983, 336 F.Supp. 378 APP. 651 F.2d 537, 744 F.2d 1458 (SAME); CAMERON V FORTES, D.MASS 1992, 783 F.S. 1511 (SAME); DAVIS V BARKER, Oct. 1978, 461 F.Supp. 842; PENNINGTON V STRUDWICK, 1934, 451 U.S. 1 (SAME) YET THE COURTS (IN THIS CASE) HAVE TREATED PHILIPS EQUAL TO, OR WORSE THAN, CONVICTED PRISONERS UNDER A SENTENCE OF CRIMINAL PUNISHMENT.
- (H) THE COURT SENT PHILIPS TO PRISON INSTEAD OF SENDING HIM TO A HOSPITAL AS REQUIRED BY LAW
- (I) THE COURT PUT PHILIPS IN CRIMINAL PROSECUTION CONDITIONS (INSTEAD OF PSYCHIATRIC CONDITIONS)
- (J) THE COURT HAD PHILIPS SUPERVISED BY A CRIMINAL PROSECUTION OFFICER WHO WAS UNQUALIFIED BY HAVING NO KNOWLEDGE, SKILLS, OR EXPERIENCE IN MENTAL HEALTH
- (K) ITEM PHILIPS REQUESTED ON A BUREAU WIRELESS SIMPLY BECAUSE SHE DISAGREED WITH THE RELIGION OF PHILIPS

(E) 18 USC 3603(g)(A) IS UNCONSTITUTIONAL BECAUSE IT CONFLICTS WITH THE FEDERAL MENTAL HEALTH LAWS (SEE U.S. v. MCGOWAN, 1978, 851 F2d 529) AND IT CONFLICTS WITH THE STATE AND, AT LEAST, OF THE MENTAL HEALTH LAWS (SEE U.S. v. ABUSWATER, 1985, 761 F2d 854)

7. 18 USC 4031 AND 18 USC 4247(c) REQUIRE "INDIVIDUALIZED" CARE AND TREATMENT ACCORDING TO THE CHARACTER OF THE INDIVIDUAL. THE BOP HAS A POLICY OF TREATING ALL MENTAL PATIENTS ALIKE. (IN 20 YEARS OF INMATE CARE, PATRICK HAS NEVER READ "INDIVIDUALIZED CARE AND TREATMENT". 42 USC 10541 IS THE MENTAL PATIENTS DUE LIQUID RIGHTS.

SEE WELSON v. IRVING, ND WA 1972, 491 F2d 552 (INDIVIDUALIZED TREATMENT REQUIRED) BUTNY v. NYC COMMUNICATIVES, 26787, 818 F2d 1016 (SERC), WANTING v. WILSON, 1982, 546 FSupp 174 (COURT CONSIDERED LIBERTY PREFERENCE), PROFF v. HARRIS, OR 1975, 730 F2d 272 (MUST BE INDIVIDUALIZED IN THE LEAST RESTRICTIVE AND LEAST RESTRICTIVE SETTING) THE BOP IS THE OPPOSITE. THE BOP MENTAL PATIENTS IN THE MOST RESTRICTIVE SETTING - AUTOMATICALLY. SEE ALSO WYATT v. ANDERSON, SD 1974 503 F2d 1305, WYATT v. STICKNEY, MD ALA 1972, 344 FSupp 373, 344 FSupp 387, 344 FSupp 1341, US v. FAUCETT, 1972, 491 F2d 352; YOUNG v. RILEY AT 359 N. 25 (DIFFERENT PATIENTS HAVE DIFFERENT LIBERTY INTERESTS AND REQUIRE DIFFERENT LEVELS OF TREATMENT) SEE RENZI v. KLEIN, 1978 462 FSupp 1131, 476 FSupp 1207, 653 F2d 836; TRAP v. DUCES, 1978, 366 US 84 (LABELING SOMETHING A "TREATMENT" DOES NOT IPSE FACTE MAKE IT A TREATMENT AND NOT A PUNISHMENT) "CORRECT LIBERTY" FOR THE MENTALLY ILL IN THE BOP, IS THE SAME AS DISPLACEMENT. DISPLACEMENT IS NOT RESPECTED.

SEE LANDRUM v. REED, 1971, 335 FSupp 621, 357 FSupp 1272, 357 FSupp 1322; MURRAY v. WYATT, 1976, 427 US 215 (TREATMENT CANNOT BE DENIED OR OPPRESSED)

8. THE BOP EMPLOYERS VIOLATE THE "AS-LEARNED" PRINCIPLES OF 18 USC 4243(p). THE BOP MUST MAKE "ALL" REASONABLE EFFORTS TO GET THE STATE TO ASSUME RESPONSIBILITY. THE BOP PLACES ONE ATTEMPT PER YEAR. "UNLESS" THE PATIENT IS NO LONGER MENTALLY ILL, THE DIRECTOR MUST IMMEDIATELY NOTIFY THE COURTS. THE BOP WAIT UNTIL THE APPEAL REPORT IS DUE.

9. EVEN THOUGH THE INSINUITY ACQUITTEE HAS BEEN GIVEN ABSOLUTION FOR HIS CRIMES, THE BOP
 ALWAYS (NO MATTER HOW MANY YEARS PASS) USE THE CRIME TO KEEP A PERSON INCARCERATED,
 THAT VIOLATES DUECESS SECURITY, 423 JUDICIAL, AND CONSTITUTIONAL CRIMES. IF CRIMES THAT
 AREBUTTABLE OCCURRED THE PERSON WILL NEVER BE RELEASED (LEONARD STERK; 66-1883, 9-86
 PL-456) SEE EDGERTON v HARRIS, 1964, 419 F2d 617 (THERE COMES A TIME WHERE THE CRIME MUST
 BE PUT ASIDE WITH DUENESS & RELEASING) MILLARD C HARRIS, 1968, 406 F2d 469 (THE GREATER THE
 DISTANCE IN TIME BETWEEN THIS CRIME AND THE EVALUATION, THE LESS THE CRIME CAN BE USED)
OLIVER v DONALDSON, 1968, 234 SCAS 117, 413 F2d 503, 422 US 563 (25 years OVERLAP)
 EACH TIME PHILIPS IS INTERVIEWED, THE CRIME IS AT ISSUE EVEN THOUGH THE GOVERNMENT ADMITS
 PHILIPS DID NOT COMMIT A CRIME.

10. THE DOCTORS DO NOT USE THE "CURE'S SURGE" APPRENTICE TO MARKING A PATIENT'S
 RECORDS (US v KEROSKI, 40-1444, 25 F3d 419) BUT Rely ENTIRELY UPON "THE RECORD" (DISEASES CURED BY
 PREVIOUS DOCTORS IN YEARS PAST)
 (A) WITH PHILIPS ARRIVED AT FMC-DOUGLAS, DR HAD DISAGGRESSION PHILIPS' "PATIENT
 SURGE SURGE" THE MURKY RUBBER STAMPED THE DISEASES OF THE 1985 TRIAL DOCTORS
 FROM THE RECORD. THAT IS PLAIN FALSE BECAUSE THE TRIAL DOCTORS MADE A DIAGNOSIS
 ON PHILIPS CURE OF BEING PRISON IN A INTERNATIONAL TERROR CONSPIRACY. BUT IN 1992
 THAT CURE WAS POSSIBLE TO BE TRUE - SO THE TRIAL DOCTORS DISEASES CURES STAMPED
 BUT BOP DOCTORS ALWAYS RUBBER STAMP THAT DIAGNOSIS WHETHER OR NOT THEY
 CONDUCTED EVALUATION WITHOUT THE RECORD

11. THE BOP STAFF FLAGRANTLY VIOLATE THEIR OWN RULES THAT ITENS MENTAL PATIENTS, SEE
 PENSION OF STATE POLICE, 1985; 484 ALD 103 (EMPLOYEES MUST FOLLOW MURKY RULES) MCLELLAN v
US, 1991, 598 ALD 225 (DEPARTMENT RULED BY RULES OF AGENCY) GAUBBET v US, 1991, 113 LEd 2d 335,
 835 F2d 1284

Policy Statement 6000 et seq. determines the care and treatment of mental patients and 28 CFR 541 determines discipline of convicted prisoners. The BOP punishes civil patients as convicted prisoners are punished without any regard to their mental status (see LAWMINN v. REED, 1421, 333 F.Supp. 421, 334 F.Supp. 1212, 334 F.Supp. 1322 (rules must be those of a mental hospital, not a prison); PELZ v. CINCINNATI, 404 F.2d 176, 249 F.Supp. 684 (S.D.N.Y.)

The employees of the BOP violate the rules concerning federal employees' conduct and responsibilities (BOP Policy 300.3 and 3120.6)

(a) For example the employees must display name identification tags on their clothing and must reveal their names to inmates upon request.

(b) Employees do not wear name plates but when they do, they conceal it so inmates cannot see the name

(c) Employees either refuse to disclose first names or conceal a last name (i.e. initial or only taking last name) or inmate complain to the guard about officer "smirking" when others are "smirking" and won't even reveal a first name or initial.)

(d) Employees are discriminatory from abusing or discriminating inmates (especially the mentally ill) but employees disregard the federal employees' conduct rules.

(e) Employees abuse the mentally ill frequently because the mentally ill never complain they are so ill they don't know their rights are being violated or they think they must have done something to deserve the abuse but don't know why. Employees may not realize if this condition is just their own frustrations. When patients do complain, the complaint is viewed as a product of the mental illness rather than a legitimate complaint.

There is no affidavit for the mentally ill as required by 42 USC 10841. 42 USC 10843

(f) The employees do not exercise professional judgment (SHAW v. STALKHOUSE; 1976, 426 F.2d 1135; WILSON v. REED, 1981, 487 F.Supp.)

THE BOP STAFF ARE NOT TRAINED IN THE CARE AND TREATMENT OF THE MENTALLY ILL. THEY ARE TRAINED ONLY IN SECURITY AND ANY MENTAL ILLNESS SKILLS OR COURSES ARE FROWNED UPON BY THE B.O.P. OFFICER, DOCTORS, NURSES, NEVER INTERACT WITH MENTAL PATIENTS EXCEPT AT A FIXED SCHEDULED APPOINTMENT. THE STAFF LOCK THEMSELVES IN THE OFFICE, PLAY CARDS, WATCH TV OR THE INTERNET, PUT VIDEOS ON, SMOKE, ETC. B.T. NEVER TALK TO INMATES - NEVER INTERACT WITH INMATES - IT IS A BOP POLICY.

- THEY SEIZE PROPERTY OF INMATES WITHOUT GIVING A RECEIPT (IN VIOLATION OF ROWS)
- THEY MAKE UP THEIR OWN ROWS OR A LIE TO THEM OR ON THEIR CORRECT NEEDS
- THEY VIEW MENTAL PATIENTS AS SUB-SPECIES AND COMMUNICATE RIGH ATTITUDE
- THEY MAKE FALSE REPORTS AND ACCUSATIONS AGAINST INMATES
- THEY INFURIATE, CYBER, AND THREATEN MENTAL PATIENTS
- THEY INFLUENCE AGAINST MENTAL PATIENTS WITH VENDICATIVES (AT THE APPROVAL OF SUPERVISORY STAFF)
- THEY EXERT ABSOLUTE CONTROL AND DEMAND INSTANT OBEDIENCE AND SUBMISSION OF ALL MENTAL PATIENTS. NO PATIENT CAN EXPRESS INDIVIDUALISM OR AUTONOMY.
- THERE ARE NO DIVERSIVE ACTIVITIES FOR MENTAL PATIENTS - NO GAMES - NO RECREATION - EXERCISE IS 1 HOUR PER WEEK - IF THE "THERAPIST" IS AVAILABLE: THEY ARE 3 TELEVISIONS BLASTING ON 3 DIFFERENT CHANNELS (BUT ROWS REQUIRE T.V.'S NOT TO HAVE SPACES TO HAVE PEACE AND QUIET) (PAYING FOR T.V. IS PAYING)
- BEHAVIOR CONTROL IS LEFT TO THE INMATES TO DETERMINE AT "DOING ORDER"
- INMATES ARE UNREHABED - NO Cognitve THERAPY
- NO MATTER WHAT MENTAL STATUS (OR THE CRIME) OR INMATES NOT SENT TO ROWS FOR MENTAL REASONS - THEY GO DIRECTLY TO OPEN POPULATION. BUT FOR INMATES WITH WITH THE MENTAL LABEL, THEY GO TO MAXIMUM SECURITY REGARDLESS OF THE TYPE OF CRIME AND REGARDLESS OF THE ACTUAL MENTAL STATUS (THIS VIOLATE THE LEAST RESTRICTIVE SETTING PRINCIPLE (youngberg at 34) Section 1321, 1331, 1419, 484 F. Supp 278)

- INMATES ARE NOT PROVIDED WITH PAPER HYGIENE SUPPLIES OR ANTI-BACTERIAL BODILY
- RULES REQUIRING "QUIET TIME" BUT STAFF LIVELY RULES
- COUNT TIME IS MANDATORY IN PRISONS BUT NOT IN MEDICAL HOSPITALS. THE BOP REQUIRES ONLY ONE COUNT IF NIGHT - THE FMC OFFICERS REQUIRE 3 PER DAY.
- DAILY ALARMS ARE SUPPOSED TO BE USED AT NIGHT FOR COUNTS (RULE) BUT OFFICERS AND NURSES TURN ON THE BRIGHT LIGHTS OF INMATES ROOMS TO AWAKEN THEM INSTANTLY TO MAKE THEM MOVE THIS BODY. THIS IS CONSIDERED INHUMANE TO PATIENTS BUT IS PRACTICE AT "PRISONS" (ALSO - OFFICERS TURN THE LIGHTS ON - SWITCH ON AUTOMATICALLY)
- MEDICAL PATIENTS MUST GET THEIR MEALS WITHIN 22 MINUTES (INCLUDING THE TIME IT TAKES TO GO TO THE DINING ROOM, WAIT IN LINE TO GET THE FOOD, AND TURN IN THE TRAY TO THE WAIT ROOM).
- PROPERTY PURCHASED AT ANOTHER INSTITUTION IS NOT ACCREDITED AT DUESEN, IF IT IS NOT SOLD AT DUESEN PROPERTY IS DESTROYED WITHOUT COMPENSATION OR DUE PRICE.
- THE MAIL OF CIVIL PATIENTS ARE TREATED AS THE MAIL FOR SENTENCED PRISONERS AND TREATED
 - (1) MAIL FROM THE COURTS ARE NOT CONSIDERED LEGAL MAIL AND IS TURNED BY STAFF
- RULES FOR MEDICAL PATIENTS ARE ARBITRARY:
 - (1) NO STAPLES ALLOWED - STAFF REAR SENDS MAIL WITH ELECTRICAL STAPLES
 - (2) STAFF SEND MEMOS (TO INMATES) WITH STAPLES
- INMATES CANNOT TOUCH CLEANING SUPPLIES - BUT ARE REQUIRED TO CLEAN THEIR ROOMS
- VISITING POWERS (TIDE) ONLY GET CLEAN BUCKET - BUT USE BUCKET TO CLEAN TOILET
- NO CONFIDENTIALITY IN COMMUNICATIONS TO STAFF OR OTHERS
 - (1) UNIT OFFICERS READ, INSPECT AND CUT OPEN MAIL AND MEALS (CONTINUOUSLY TO BOP RULES)
- CIVIL PATIENTS CANNOT MAKE PHONE CALLS DURING DAY HOURS

12. SUPERVISORY STAFF AT FMC-DEVENS FAIL TO PROPERLY AND ADEQUATELY TRAIN AND TO SUPERVISE SUBORDINATES. THERE IS NO ROUTINE TRAINING OF MENTAL HEALTH STAFF IN THE DAY-TO-DAY CARE AND TREATMENT OF MENTAL PATIENTS, THUSLY MENTAL PATIENTS ARE EITHER IGNORED WITH INDIFFERENCE OR ABUSED AND MISTREATED.

SUPERVISORS ARE LIABLE FOR THE DEPRIVATION AND VIOLATION OF RIGHTS CAUSED BY THEIR SUBORDINATES. SEE MCCLELLAND v. FRANCIS, 106 F.3d 693 AT 696; YARRELL v. RUMBLE THUNDERBIRD, 901 F.2d 675 AT 680-681; WAUGER v. BERNER, 561 F.2d 675 AT 679; BOARD OF COUNTY COMMISSIONER v. BROWN, 1997, 520 U.S. 597 AT 601-611; CITY OF CHICAGO v. TAYLOR, 1989, 489 U.S. 378 AT 388; MATCOYKO v. FELIX, 913 F.2d 744)

MENTAL HEALTH STAFF MUST HAVE EXTRA TRAINING AND CLOSER SUPERVISION (MORRISON v. DC, 1953, 603 F. Supp. 254, AFF 824 F.2d 1048), A GUARDIAN HAS A DUTY TO INSURE THAT THE STAFF IS PROPERLY TRAINED (JOHNSON v. LOUGHART, 824 F.2d 1048, 941 F.2d 705)

PLAINTIFF HAS SUFFERED INJURY BECAUSE OF THE FAILURE TO TRAIN AND SUPERVISE STAFF.

13. THE EMPLOYEES AT FMC-DEVENS (AND AT ALL BIP PRISONS) ARE ACTUAL IN CLEAR ABSENCE OF ALL JURISDICTION AND AUTHORITY IN THE CUSTODY, CONFINEMENT, CARE, AND TREATMENT OF PRISONS

(A) 18 U.S.C. 4001(c) STATES NO CITATION SHALL BE DETERMINED OR IMPOSED WITHOUT STATUTORY AUTHORITY.

VII

CAUSES OF ACTION

FIRST CAUSE OF ACTION

DAVID KELLY IS SOUD FOR ESTABLISHING RULES CONTRARY TO BIP RULES, FOR NOT MAKING RULES SPECIFIC TO MENTAL PATIENTS, FOR CONDUCING AN APPROPRIATE UNDULFUL ACTIVITIES OF SUBORDINATES

AND FOR FAILING TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE HIS SUBORDINATES, THAT CAUSED PHELP'S IRREPARABLE INJURY.

SECOND CAUSE OF ACTION:

MIKE BULLINGER, JAMES DODD, S. TOMASCH, AND S. HARVEY ARE SUED FOR FAILING TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE THEIR SUBORDINATES IN THE CARE AND TREATMENT OF THE MENTALLY ILL, THE LEARNING OF BCP RULES, AND THE RIGHTS OF INMATES THEY HAVE FAILED TO PROPERLY AND ADEQUATELY TRAIN THEIR SUBORDINATES IN DISTINGUISHING THE DIFFERENCE IN CIVIL COMMITMENTS (CIVIL PATIENTS) AND CRIMINAL PRISONERS AND HAVE FAILED TO PROTECT THE RIGHTS OF CIVIL PATIENTS, AND FOR ALLOWING SUBORDINATES TO TREAT CIVIL PATIENTS AS CRIMINAL PRISONERS.

THIRD CAUSE OF ACTION:

WHEN PHELP'S ARRIVED AT FMC-DEVEREUX, HE WAS INTERVIEWED BY SEVERAL BCP EMPLOYEES AND WAS EVALUATED BY RESPONDENT H. HARVEY (WITH AFT) IN CLEAR ABSENCE OF ALL INDICATION TO CONFINE PHELP (AUTOMATICALLY) IN MAXIMUM SECURITY IN VIOLATION OF THE 4TH AMENDMENT (UNEXPLAINABLE SECURE) AND 8TH AMENDMENT (COLD AND UNCOOL PUNISHMENTS - NOT APPLICABLE TO CO-OP THE 5TH AMENDMENT BECAUSE PHELP IS A CIVIL PATIENT) AND THE 9TH AMENDMENT (COMMON LAW) AS WELL AS VIOLATE THE AMERICAN WITH DISABILITIES ACT, AND BCP RULES, IS 802.4031.

HARVEY DEPARTED FROM THE STANDARDS OF HIS PROFESSION AND DID NOT EXERCISE PROFESSIONAL JUDGMENT BY NOT MAKING A INDEPENDENT EVALUATION AND DIAGNOSIS BUT MERELY RUBBER STAMPED THE OPINION OF PREVIOUS

EXAMINERS WITH A TOTAL INDIFFERENCE AND DISREGARD AS TO THE ACCURACY OF THE RECORD. HAAS HAS TAKEN AN OATH TO UPHOLD AND DEFEND THE U.S. CONSTITUTION AND THE LAWS OF THE UNITED STATES SO HE KNOWS THE LAWS, AND UNDERSTANDS THE LAWS, BUT STILL ACTED CONTRARY TO THE LAWS. PHELPS WAS LUCID, RATIONAL, COMPLIANT, AND FRIENDLY YET WAS TAKEN TO MAXIMUM SECURITY AND PLACED IN A LOCKED ROOM AT THE ORDERS OF HAAS. HAAS VIOLATED 28 CFR 3604.03 et seq., BOP POLICY 6000.01 et seq., BOP POLICY 3604.03 et seq., YOUNGBORG v. REED, 1982, 457 US 307 AND DESHANEY v. WINNEBAGO, 1989, 489 US 187 AND ROCHIN v. CALIFORNIA, 1952, 342 US 165.

1

FOURTH CAUSE OF ACTION:

RESPONDENT S. FLETCHER VIOLATED BOP RULE 3604.03 AND DEPARTED FROM THE STANDARDS OF HIS PROFESSION (UNKIND TYPE OF POLICE) AND DID NOT EXERCISE PROFESSIONAL JUDGMENT BY PERFORMING THE DUTIES RELEVANT TO A CORRECTIONAL OFFICER (ACTING LIKE A COP) WITH THE THREATENING TO PUT PHELPS IN DISCIPLINARY SEGREGATION FOR MERELY DISAGREEING WITH HIM, "I KNOW MORE ABOUT BOP RULES THAN YOU," HE SAID. "WHAT BET?" PHELPS SAID. THEN FLETCHER THREATENED TO PUT PHELPS "IN THE HOLE (N-1)" FOR DISAGREEING WITH HIM. PHELPS HAS NOT VIOLATED ANY RULES NOR WAS HE DISOBEDIENT OR DISRUPTIVE. IT UPSET PHELPS VERY MUCH TO REALIZE THAT EVEN THE DUTIES DISREGARDED THE RULES OF CONDUCT AND CARELESSLY VIOLATE OTHER RULES AND THE RIGHTS OF THE MENTALLY ILL BY ACTING ARBITRARILY, CAPRICIOUSLY, AND VINDICTIVELY.

FIFTH CAUSE OF ACTION:

RESPONDENT J. DAVIS ACTED IN CLEAR ABSENCE OF ALL JURISDICTION WITHIN ITS
 VIOLATED BOP RULE 3604.03 BY SCREAMING AND YELLING AT PHELPS IN A
 THREATENING, HOSTILE, AND MENACING MANNER JUST AFTER PHELPS HAD
 COMPLETED A CONVERSATION WITH DR. RICCS (WHO WAS STILL PRESENT AS A
 WITNESS). DAVIS IS A MALE NURSE AND KNOWS THAT HIS ACTS ARE A
 DEPARTURE FROM THE STANDARDS OF HIS PROFESSION BUT HE ACTED ANYWAY TO
 CAUSE PHELPS TO FEAR FOR HIS SAFETY (BEING 71 years old). PHELPS IS
 A HEART ATTACK RISK PATIENT AS WELL AS HAVING 2 STACKS (BECAUSE TWO
 OFFICERS HANDCAPPED HIS ARMS BEHIND HIS BACK AND BEAT him WITH FISTS,
 FLOOR, AND METAL FLASHLIGHTS BECAUSE THE AREA OUTSIDE HIS ROOM WAS
 "UNSAFE.")

SIXTH CAUSE OF ACTION:

RESPONDENT B. POTELICCITIO ACTED IN ABSENCE OF ALL JURISDICTION AND
 VIOLATED FEDERAL REGULATION 28 CFR 541, et seq., BOP POLICY 3604.03,
 18 USC 1031 AND OTHER FEDERAL LAWS WITHIN ITS (WITH COMPLETE INDIFFERENCE
 TO THE STATUS OR CONDITION OF PHELPS) ASSAULTED PHELPS, MADE FALSE
 CHARGES AGAINST PHELPS, MADE A FRAUDULENT WRITTEN INCIDENT REPORT ON PHELPS
 THAT CAUSED PHELPS TO BE PLACED IN DISCIPLINARY DETENTION FOR A WEEK.
 POTELICCITIO ALSO VIOLATED PHELPS RIGHTS UNDER THE 4th, 5th, 8th, AND 9th
 AMENDMENTS TO THE U.S. CONSTITUTION.

ON 11-23-04 AT APPROXIMATELY 10:30PM PHELPS WENT TO THE OFFICERS STATION
 ON UNIT N-3 TO GIVE POTELICCITIO A CONFIDENTIAL MEMO ADDRESSED TO GUARD
 K. LEOPARD INFORMING LEOPARD THAT THE STAFF ON N-3 WERE IN VIOLATION

OF FEDERAL LAWS, AND BOP RULES, IN THE CARE AND TREATMENT OF THE DISABLED MENTALLY ILL. POTOLICCHIO OPENED THE MEMO (VIOLATING BOP RULES) AND READ THE MEMO (VIOLATING ANOTHER RULE) AND QUESTIONED PHELPS AS TO THE CONTENT OF THE MEMO (VIOLATING THE 1ST AMENDMENT AND ANOTHER B.O.P RULE) POTOLICCHIO BECAME HOSTILE AND ANGRY AND SCREAMED FOR PHELPS TO GET OUT OF THE OFFICE, AND PHELPS COMPLIED.

WHEN PHELPS WAS OUTSIDE OF THE THRESHOLD OF THE DOOR, HE TURNED AND SAID "YOU'RE NOT WEARING A NAME TAG (A VIOLATION OF BOP RULES) WHAT IS YOUR NAME OFFICER?" "DON'T WORRY ABOUT MY NAME" HE SCREAMED AS HE STOOD WHO APPREHENDED PHELPS. MINIALLY (POTOLICCHIO IS ABOUT 6'4" TALL AND WEIGHTS OVER 250 POUNDS AND IS 40 YEARS YOUNGER THAN PHELPS) PHELPS ASK "ARE YOU REFUSING TO GIVE ME YOUR NAME? THAT'S AGAINST BOP RULES!" HE SCREAMED. "GET AWAY FROM MY OFFICE." PHELPS COMPLIED AND WALKED ABOUT LOOKING AT THE PICTURES ON THE WALLS, THE CLOCK IN THE OFFICE, ETC. (PHELPS WAS WAITING FOR THE INMATE TELEPHONE TO RING TO MAKE A CALL TO CALIFORNIA)

PHELPS APPREHENDED A CLEANING CART THAT HAD AUTHORIZED SUPPLIES ON IT FOR INMATES TO CLEAN THEIR ROOMS. IT WAS PARKED IN THE HALLWAY OUTSIDE THE OFFICE. SUDENLY POTOLICCHIO LEAPED FROM HIS CHAIR AND STARTED SCREAMING FOR PHELPS TO GET INSIDE THE OFFICE. PHELPS WALKED IN. "WHAT DID YOU TAKE OFF THAT CART AND PUT IN YOUR POCKET?" HE SCREAMED ANGRILY OUT OF CONTROL. "I DIDN'T PUT ANYTHING IN MY FUCKIN POCKET" PHELPS SAID. POTOLICCHIO SEARCHED PHELPS AND FOUND NOTHING.

"GET AGAINST THE DOOR" HE YELLED, THEN QUICKLY CHANGED HIS MIND AND TOOK PHELPS IN THE HALLWAY. "GET AGAINST THAT WALL" HE SCREAMED, THEN QUICKLY CHANGED HIS MIND AGAIN AND YELLED FOR PHELPS TO GO TO THE OTHER SIDE OF THE HALLWAY.

* NOT ONLY DOES STAFF NOT WEAR NAME TAGS, NO OFFICE HAS THE NAME OF THE STAFF ON IT. TO FIND A OFFICE IS JUST A GESSING GAME. BOP RULES STATE ALL OFFICES WILL BE IDENTIFIABLE.

TO LEAN AGAINST THE WALL WITH ITS HANDS ABOVE ITS HEAD AND HIS FEET APART.*

PHELPS COMPLIED WITH THE ORDER BUT POTOLICCIO WAS NOT SATISFIED WITH THE DISTANCE BETWEEN PHELPS' FEET AND YELLED TO MOVE THE FEET FURTHER APART. "I CAN'T" PHELPS SAID, "THAT'S AS FAR AS I CAN GO. I HAVE A SPINAL INJURY." POTOLICCIO BECAME MORE OUT OF CONTROL AND SCREAMED FOR PHELPS TO MOVE HIS FEET APART AND SIMULTANEOUSLY KICKING THE RIGHT LEG OF PHELPS KNOCKING HIS LEG ABOUT 6 INCHES FURTHER APART. PHELPS IMMEDIATELY FELT SEVERE PAIN IN HIS BACK, SPINE, AND LEGS AND CROWED IN PAIN. POTOLICCIO WAS COMPLETELY INDIFFERENT AND YELLED "I TOLD YOU TO GET THOSE FEET APART."

HE WENT THE RIGHT ARM OF PHELPS FULL FROM THE WALL TO HIS SIDE. "GET THAT ARM UP" POTOLICCIO SCREAMED. "I CAN'T DO THIS FULL LENGTH" PHELPS SAID, "I HAVE MEDICAL PROBLEMS. I'VE HAD A HURST ATTACK AND IF I KEEP MY HANDS ABOVE MY HEAD, I'LL PASS OUT. I'VE HAD 2 STROKES AND I CAN'T HOLD MY RIGHT ARM UP THIS LONG" POTOLICCIO WAS CALLOUSLY INDIFFERENT AND TOOK THE RIGHT ARM OF PHELPS AND BURNT IT AGAINST THE WALL YELLING "GET THAT ARM ON THE WALL."

HE WENT BACK TO THE OFFICE AND TOLD NURSE W. BLASZON "I'M GOING TO LICK HIM UP. I DON'T LIKE HIM." HE MADE TWO PHONE CALLS AND RETURDED "WHAT DID YOU CALL ME?" HE YELLED. "WHAT ARE YOU TALKING ABOUT?" PHELPS ASK. "YOU JUST CURSED ME" HE YELLED. "I HERED YOU." "YOU WERE NOT EVEN HERE" PHELPS SAID "HEA CUD I COSS YOU IF YOU'RE NOT HERE" POTOLICCIO STAMMERED "YEH-WHILY -- YEH-WHILY -- YEH-WHILY."

PHELPS RIGHT ARM FELL AGAIN, BUT AT THE SAME TIME OTHER OFFICERS ARRIVED TO ESCORT PHELPS TO DISCIPLINARY DETENTION.

* PHELPS WAS NOT SCAVENGED WITH HEAVY IRON WITHIN THE MURK WAS JUST SEVERE PUNISHMENT

POTOLICKIC THEN TOOK THE MEMOS PHELPS HAD WRITTEN TO CONSIDER
LEGALLY AND SPITEFULLY DESTROYED THEM. HE WENT TO PHELPS' ROOM AND TOOK
PHELPS PROPERTY AND DESTROYED THE PROPERTY SPITEFULLY AND VINDICATIVELY.
THE NEXT DAY A POLICE OFFICER SAW A PINK SHEET OF PAPER UNDER THE DOOR
WITHOUT SAYING WHAT IS WAS OR WHAT WAS WRITTEN ON IT AND PHELPS COULD
NOT READ IT BECAUSE HIS EYEGLASSES WERE SEIZED (AS IT TURNED OUT IT WAS A
COPY OF THE INCIDENT REPORT. THE BOP RULES REQUIRE THE REPORT TO BE GIVEN TO
THE INMATE WITHIN 24 HOURS AND IF THE INMATE CAN'T READ IT, IT MUST BE READ
TO HIM. IT WAS NOT. PHELPS ARGUES THAT IF HE IS GIVEN A DOCUMENT HE CAN'T
READ IT AND IT IS NOT READ TO HIM, IT IS THE SAME AS NOT GETTING THE DOCUMENT
AT ALL AND IS A DENIAL OF DUE PROCESS AND VIOLATES BOP RULES)

A WEEK LATER PHELPS HAD A DISCIPLINARY HEARING (3 DAYS OVER THE
TIME LIMIT TO HOLD A HEARING) AND THE HEARING OFFICER DISMISSED THE
CHARGE AS BEING PATENTLY FALSE. "WHEN I FIRST READ THIS REPORT" THE
HEARING OFFICER SAID, "I COULD EASILY SEE SOMETHING WAS WRONG WITH IT;
IT DIDN'T MAKE SENSE."

POTOLICKIC LIED IN THE REPORT; HE FILED A FALSE REPORT; AND HE CAUSED
PHELPS TO SUFFER IRREPARABLE INJURY AND SUFFERING.

SEVENTH CAUSE OF ACTION:

RESPONDENT W. BLAZON ACTED IN CONSPIRACY WITH POTOLICKIC TO MAKE
FALSE CHARGES, SHE ENCOURAGED HIM AND ADVISED HIM, SHE AIDED IN
CONSPIRACY AND JOINTLY PARTICIPATED IN THE VIOLATIONS OF THE RIGHTS OF PHELPS,
BOP RULES AND FEDERAL REGULATIONS REQUIRES EMPLOYEES TO INTERVENE WHEN
OFFICERS ARE VIOLATING THE RIGHTS OF INMATES AND TO IMMEDIATELY REPORT THE

OPPENDING OFFICER TO SUPERVISORS. SITE DID NOT INTERFERE AND DID NOT REPORT THE ABUSE, ASSAULT, OR VIOLATIONS. SHE FAILED TO EXERCISE PROFESSIONAL JUDGEMENT.

SHE IS THE NURSE FOR THE UNIT AND IS FAMILIAR WITH THE MEDICAL STATUS AND CONDITION OF PHELPS, BUT STILL DID NOT STOP POTOLUCCIO. SITE KNEW THAT PHELPS IS A CIVIL PATIENT AND KNOWS THAT MENTAL PATIENTS HAVE RIGHTS EXCEEDING THE RIGHTS OF PRISONERS, AND CITERS, YET SITE DID NOTHING TO STOP THE ASSAULT AND ABUSE. SITE AND POTOLUCCIO VIOLATED 18 USC 241-242 (CIVIL RIGHTS), 18 USC 1621 et seq (PERjury) AND OTHER FEDERAL LAWS.

BURTON AND POTOLUCCIO HAD BEEN PLAYING CARD GAMES FOR ABOUT 2 HOURS PRIOR TO THE INCIDENT. THEY NOT ONLY APPEARED TO BECOME INCREASINGLY "FRIENDLY" BUT ALSO BECAME HOSTILE WHEN PHELPS INTERRUPTED THEIR GAMES TO HAND HIM THE MEMO. PHELPS TOLD THE DISCIPLINARY OFFICER, "YOU KNOW WHAT THIS IS ALL ABOUT? POTOLUCCIO JUST WANTED TO IMPRESS A FEMALE WITH HIS MASTODON AND POWER. THAT'S WHAT THIS IS ALL ABOUT — TRYING TO IMPRESS A FEMALE, BUT ALL HE SUCCEEDED IN DOING WAS TO PROVE HE HAS A CHILDISH INFANTILE MIND WITH THE INABILITY TO MAKE CORRECT DECISIONS AND UNABLE TO CONTROL HIS EMOTIONS. THE HEARING OFFICERS AGREED AND DISMISSED THE CHARGES SAYING "STAY OUT OF TROUBLE."

EIGHTH CAUSE OF ACTION:

UNDER THE "INDIVIDUALIZED TREATMENT" OF 18 USC 4081, AND THE "NATURE OF THE CHARACTER" OF 18 USC 4247(c), AND UNDER THE PROVISIONS OF THE AMERICAN'S WITH DISABILITIES ACT, AND UNDER THE MENTALLY ILL BILL OF RIGHTS (42 USC 10841) PHELPS MADE A REQUEST FOR A SILENT ROOM IN OPEN

POPULATION IN THE LEAST RESTRICTIVE SETTLE NOT ONLY BECAUSE OF HIS AGE (71) AND MEDICAL DISORDERS, RESTRICTIONS, AND LIMITATIONS (STROKE, HEART ATTACK RISK, ARTERIOS, AND OTHERS) BUT ALSO FOR SAFETY AND SECURITY, THAT PREVENTS HOSTILE CONFRONTATION'S WITH OTHERS WHO DO NOT SHARE THE SAME RELIGIOUS BELIEFS AND PHILIPS HIS BELIEFS OFFENSIVE AND UNACCEPTABLE TO SUCH A DEGREE THAT THEY BECOME COMBATIVE. PHILIPS DOES NOT PRESERVE HIS RELIGION NOR DOES HE RECRUIT CONVERTS, HOWEVER OTHER INMATES KNOW HIS IDEOLOGIES. HOW?

AT HIS PREVIOUS PRISON, INMATES WOULD DISCOUP COPIES OF PHILIPS PUBLICATIONS IN THE LAW BOOKS AND THEN PHOTOCOPY SEVERAL COPIES OF THE SAME AND THEN DISTRIBUTE THE PHOTOCOPIES TO OTHER INMATES WITH THE SAME INTENT AND SICKNESS TO CAUSE PHILIPS TO SUFFER IN SOME WAY. THE COPIES WERE ALSO GIVEN TO SELECTED STAFF MEMBERS, MOSTLY PHILIPS SUFFERED HARASSMENTS, OSTRACISM, AND SHAMEFUL REMARKS AND IDLE THREATS OR VEILED THREATS. BUT HE ALSO SUFFERED IN OTHER WAYS. BLACK INMATES WOULD FALSELY REPORT THAT PHILIPS CALLED THEM A "NIGGER" OR SOMETHING DEROGATORIALLY JUST TO GET PHILIPS PUT IN THE HOLE OR MOVED TO ANOTHER UNIT.

AT HIS PREVIOUS PRISON, AN INMATE DISTRIBUTED COPIES OF CAGES TO OTHER BLACK INMATES AND STAFF. HE WOULD IMMEDIATELY TRANSFERRED TO ANOTHER PRISON FOR ENDANGERING THE LIFE OF ANOTHER INMATE AND FOR INTERFERING WITH THE THERAPY AND TREATMENT PROGRAM OF OTHERS.

TWO DAYS AFTER PHILIPS ARRIVED AT FORT-DEVENS HE PASSED A GROUP OF BLACK INMATES, ONE BLACK INMATE REMARKED TO THE OTHERS "THERE'S THAT 'ALST M---F---' (INJECTION, PHILIPS). PHILIPS HAD NEVER SEEN THEM BEFORE AND HE IGNORED THE REMARKS, HOW DID THEY KNOW?

PHELPS WENT TO THE DINING ROOM AND IN THE DINING ROOM WAS THE SAME BUNCH OF INMATES THAT HAD BEEN TRANSFERRED FROM BUTNER. THEY ALL LIVED IN THE MONTHLY HEALTH UNITS.

COUNSELOR LEONARD REFUSED TO ASSIGN PHELPS TO A SINGLE ROOM SOLELY IN SPITE OF THE FACTS OF ELIGIBILITY. ACCORDING TO BOP RULES, IT IS THE COUNSELOR WHO ASSIGNS ROOMS AND HE DOES THAT ARBITRARILY WITHOUT SCREENING OR EVALUATING NEEDS FOR COMPATIBILITY OR INDIVIDUAL NEEDS. WHATEVER BED IS VACANT IS WHERE THE ELIMATE GOES. HE VIOLATES THE TERMS OF 18 USC 4281 (INDIVIDUALIZED TREATMENT) AND 18 USC 4247(c) (ACCORDING TO THE CHARACTERS OF THE INMATES).

HE ALSO VIOLATES DESHANEY V WENDELL, 1982, 489 U.S. 189,

BUT TO KEEP PHELPS LOCKED IN MAXIMUM SECURITY OR IN A SEMI LOCKED UNIT VIOLATES THE LEAST RESTRICTIVE SETTING REQUIREMENTS OF THE SUPREME COURT. (REMEMBERING THAT PHELPS IS A CIVIL PATIENT AND NOT A Criminal PRISONER, SO THE COURTS MUST EXTEND PATIENTS RIGHTS - NOT PRISONERS RIGHTS. SEE ROMEY V YOUNGSTONE, 1981, 644 F.2d - (COURTS CANNOT USE CASE LAW DECISIONS FOR CONVICTED PRISONERS TO BE APPLIED TO CIVIL COMMITMENTS) AFFIRMED IN GRANGE V ROUSE, 1982, 457 U.S. 307.

NINTH CAUSE OF ACTION.

PHELPS IS DENIED HIS 1ST AMENDMENT RIGHT TO PETITION THE COURTS (DENIAL OF ACCESS TO THE COURTS).

TAKEN LITERALLY, PHELPS IS NOT DENIED "ACCESS TO THE COURTS." HE IS DENIED MEANINGFUL ACCESS TO THE COURTS.

THE RULES (ESTABLISHED BY WARDEN WILK) PROHIBITS PHELPS FROM LEAVING UNIT N-3 EXCEPT TO GO TO THE DINING ROOM FOR MEALS. HE CANNOT GO

TO THE LAW LIBRARY TO CONDUCT LEGAL RESEARCH IN ORDER TO PREPARE DOCUMENTS FOR THE COURTS AND INTERESTED PARTIES. PHILIPS SENT A MEMO TO THE LAW LIBRARY REQUESTING LEGAL RESEARCH ASSISTANCE, BUT THERE WAS NO RESPONSE. HE SENT A MEMO TO COMMISSIONER LOCHARD AND UNIT MANAGER LOCHARD REQUESTING PERMISSION TO GO TO THE LAW LIBRARY BUT NEITHER RESPONDED. THEY WERE INDIFFERENT TO THE REQUESTS.

PHILIPS GAVE PAPERS TO ANOTHER INMATE (WITH BLOOD IN A CPOE JACKET) TO TYPE COPY AT THE LAW LIBRARY. THE MACHINE WOULD NOT PRINT ONLY THE BLOOD INK AND THE COMMUNICALLY CELLS ONLY PRINT WITH BLOOD INK.

PHILIPS ASK THE UNIT OFFICER TO USE THE UNIT TYPEWRITER (WITHOUT EACH UNIT IS REQUIRED TO HAVE) AND WAS INFORMED THAT THE UNITS DO NOT HAVE TYPEWRITERS FOR (WHITE USE).

PHILIPS ASK A FRIEND TO GET SOME FORMS FROM THE LIBRARY (WITHOUT THE LIBRARY IS REQUIRED TO HAVE) AND SEND ADDRESSES OF COURTS (ETC) AND WAS TOLD THAT THE LIBRARY DID NOT PROVIDE SUCH DOCUMENTS AND PHILIPS WAS INFORMED THAT HE COULD NOT GET HELP FROM OTHER INMATES EVEN THOUGH THE STAFF WILL NOT ASSIST HIM AND WOULD NOT ALLOW HIM TO GO ANYWHERE TO ASSIST HIMSELF. AS AN ADDENDUM TO THIS COMPLAINT,

PHILIPS REQUESTED SOMETHING TO COPY THIS PETITION, BUT THIS REQUEST WAS DENIED UNTIL A GUARANTEE AT THE PETITION REVIEWED, IT WAS A LAWSUIT AGAINST BOP EMPLOYEES. IT WAS AGREED THAT PHILIPS WOULD PAY FOR THE PERTINENT COPY. EXTRAT COPIES WERE MADE AND GIVEN TO THE FACILITY ATTORNEY, SOME RESPONDENTS, AND OTHERS EVEN BEFORE THE COMPLAINT WAS SENT TO THE COURT (BY ATTORNEY LOCHARD).

WHEN PHILIPS ARRIVED AT FMC DEVENS, HE REQUESTED PERMISSION TO GO TO THE LAW LIBRARY; HIS DOCTOR (HARRIS) APPROVED THIS REQUEST. AFTER SOME DELAY OF NOT BEING ALLOWED TO GO, PHILIPS ENQUIRED ABOUT A REASON AND DR HARRIS INFORMED PHILIPS THAT THE UNIT TEAM MEMBERS WERE PUNISHING HIM FOR THE INCIDENT REPORT HE RECEIVED AND WITHIN THE DISCIPLINARY COMMITTEE DISMISSED AS BEING A FRAUDULENT

REPORT:

THE TEAM MEMBERS DID NOT GIVE PITZERS ANY DUE PROCESS BEFORE IMPOSING THE PUNISHMENT OF DENYING HIM ACCESS TO THE LAW LIBRARY. ONE OF THE TEAM MEMBERS WAS CASE MANAGER DAY, AND PITZERS HAD ALREADY INFORMED HER THAT THE DISCIPLINARY COMMITTEE HAD DISMISSED THE COMPLAINT AGAINST HIM. HE ASK HER TO EXPOSE THE INCIDENT REPORT FROM HIS RECORDS (WHICH SHE IS AUTHORIZED TO DO) BUT SHE SAID "THAT'S NOT MY BUSINESS - THAT'S THEIR BUSINESS. SHE (AND THE OTHER TEAM MEMBERS) DECIDED TO RETALIATE AGAINST PITZERS FOR PREVARICATING ON THE INCIDENT REPORT AND TO PUNISH HIM FOR PREVARICATING BY DENYING HIM ACCESS TO THE LAW LIBRARY.

THIS PUNISHMENT WITHOUT ANY DUE PROCESS ALSO VIOLATES DOUBLE JEOPARDY AND IS RETRIBUTIVELY UNDICTED PUNISHMENT.

10TH CAUSE OF ACTION: RESTRICTION TO COURT ACCESS:

RULES OF THE BOP REQUIRE ASSISTANCE INMATES TO OBTAIN ACCESS TO THE COURTS. PITZERS REQUESTED THAT \$150.00 BE WITHDRAWN FROM HIS ACCOUNT AND TO ISSUE A CHECK MADE PAYABLE TO THE COURT AS A FILING FEE FOR THIS ACTION. THIS IS A ROUTINE MATTER AND BOP POLICIES PERMIT THE PROCEEDINGS. THE MONEY IN QUESTION BELONGS TO PITZERS. PITZERS IS NOT INCOMPETENT AND MAINTAINS HIS OWN FUNDS. BOP POLICY STATES THAT INMATES MAY WITHDRAW FUNDS AT ANY TIME AND CAN SEND MONEY TO ANYONE NOT IN SECURITIES OF FUNDS. THE BOP ONLY HOLDS THE MONEY - LIKE A BANK.

"SUSAN" (BUSINESS OFFICE SUPERVISOR) REFUSED THE REQUEST SAYING THAT SHE HAD SET UP HER OWN NEW PROCEDURES WHICH BY THE INSTITUTION MUST NOW WAIT FOR THE COURT TO REVIEW ANY ACTION (TO DETERMINE ITS MERIT) AND THEN WAIT FOR THE COURT TO ISSUE AN ORDER TO WITHDRAW THE MONEY.

THIS IS JUST A SHAM TO CREATE OBSTACLES AND BARRIERS FOR INMATES TO

OVERCOME TO GAIN ACCESS TO THE COURTS. COURTESY LEONARD INFORMED PITELPS THAT WARDEN WILKIN CONDUCTED THE PROCEDURE AFTER IT WAS IMPLEMENTED. THIS PROCEDURE IS DESIGNED SOLELY TO HARASS, INMATES AND SERVES NO LEGISLATIVE FUNCTION. IT ALREADY CREATED OBSTACLES TO HEARING THE CASE.

11th CAUSE OF ACTION:

ON 1-23-2005 JEFFERY SCHNUCK COLLECTED A GROUP OF INMATES THAT WERE ON "CUT-OUTS" (WHICH IS A LIST OF INMATES AND THEIR SCHEDULED ACTIVITIES). PITELPS' NAME WAS ON THIS LIST. PRIOR TO THAT, A NURSE HAD NOTIFIED PITELPS THAT HE WAS ON "CUT-OUT" BUT BECAUSE HE WAS ON UNIT N-3 (A SEMI-LUXED UNIT) THAT DR. SENGCO, P.M. (WHATEVER P.M. IS) WOULD COME TO THE UNIT AND DIRECT THE INMATES TO A GROUP THERAPY ROOM (INMATES ON N-3 MUST BE DIRECTED TO GROUPS. THEY CANNOT LEAVE THE UNIT UNDIRECTED EXCEPT TO GO TO PRERALS)

DR. SENGCO TOLD THE INMATES "YOU ARE SCHEDULED FOR GROUP THERAPY. BUT ME OR ANOTHER AREA. YOU DON'T HAVE TO GO IF YOU DON'T WANT TO. YOU HAVE THE RIGHT TO REFUSE. IF YOU REFUSE I WILL ASK YOU TO SIGN A REFUSAL FORM (BP-358(cc)) AND IF YOU SIGN, YOU WILL NOT BE PUT ON CUT-OUT AGAIN. I WOULDN'T BOTHER YOU ABOUT IT."

PITELPS INFORMED SCHNUCK HE WAS REFUSING AND REQUESTED THE FORM TO SIGN. SCHNUCK SAID PITELPS MUST GO TO GROUP THERAPY AND SIGN THE FORM THERE AND HE MUST STAY IN GROUP THERAPY THE FULL HOUR BECAUSE THAT'S THE RULE. PITELPS SAID "LET ME GET THIS STRAIGHT. I CAN REFUSE TREATMENT BUT YOU ARE REQUIRING ME TO RECEIVE THE TREATMENT BEFORE I CAN REFUSE IT? - THE VERY SAME TREATMENT I HAVE A RIGHT TO REFUSE?" HE REPLIED "YES."

PITELPS REFUSED TO GO SAYING THIS WAS THE MOST ILLEGAL THING HE HAD HEARD SINCE HIS WIFE WENT TO THE MALL AND SPENT 500 DOLLARS ON CLOTHES TO SAVE MONEY (40 DOLLARS). SINCE SCHNUCK SAID NOONE WAS REQUIRED TO GO, PITELPS RETURNED TO HIS ROOM.

AN HOUR LATER SCOTT BLOWED THE REFUSAL FORM TO PHELPS FOR PHELPS TO SIGN. PHELPS SIGNED THE FORM. SCOTT SAID "BECAUSE YOU REFUSED TO CALL OR CALL OUT AND BECAUSE YOU REFUSED CROUP THERAPY, I'M WRITING A DISCIPLINARY INCIDENT REPORT ON YOU." PHELPS SAID "LET ME GET THIS STRAIGHT - YOU'RE GOING TO PUNISH ME FOR NOT DOING WHAT I AM NOT REQUIRED TO DO?" "YES" HE SAID. "YOU CAN'T DO THAT" PHELPS SAID. "I HAVE A RIGHT TO REFUSE - YOU GAVE ME THAT RIGHT." "WELL, YOU HAVE THE RIGHT TO BREAK THE LAW TOO BUT YOU MUST FACE THE CONSEQUENCES." HE SAID. PHELPS SAID "THAT'S AS ILLICIT AS YOU'RE OTHER REMARKS - NOBODY HAS A RIGHT TO DO A CRIME, THAT'S WHY WE HAVE PRISONS!" "WELL, ANYWAY" HE SAID "I'M WRITING A INCIDENT REPORT ON YOU!"

PHELPS WENT TO HIS COOKER TO GET A ADMINISTRATIVE REMEDY FORM. PTE GENEVA REPLIED PHELPS WENT TO THE UNIT AIRMAN AND THE GUARD TO EXPLAIN THE SITUATION AND THEY REFUSED TO LISTEN TO ANY ACCOUNTS. "IF YOU WERE ON CALL OR YOU DON'T GO - YOU GET PUNISHED!" "THAT'S NOT ONLY IRATIONAL" PHELPS SAID "BUT IT'S DEFINITELY CAPRICIOUS." PHELPS WAS SO DISTRESSED THAT HE COULD NOT EAT HIS MEAL (HE HAD TO SET THEM AT THE INNATE DINING ROOM) AND HE WAS SO UPSET HE HAD TO SEEK MEDICAL ATTENTION FROM THE NURSE ON THE UNIT (PHELPS HAS HAD 2 STROKES AND A HEART ATTACK - HE IS 71 YEARS OLD) {UNREST, STRESS AND EXCITEMENT CAUSES HIM MEDICAL PROBLEMS}

12th CAUSE OF ACTION:

PHELPS DOES NOT COME UNDER THE JURISDICTION OF 18 USC 4243 (INSANITY STATUTE). THE STATUTE REQUIRES A CRIME. THE GOVERNMENT HAS ADMITTED THAT PHELPS DID NOT COMMIT A CRIME. IN 1992 THE GOVERNMENT DISCLOSED EVIDENCE THAT SHOWED THE ACTUAL INNOCENCE OF PHELPS AND THAT HE WAS NOT MENTALLY ILL (UNDER THE LAW) BUT STILL WOULD NOT RELEASE HIM BECAUSE OF HIS SHARED RELIGIOUS BELIEFS THAT THE GOVERNMENT FOUND OFFENSIVE (NOT UNLAWFUL - JUST OFFENSIVE)

13th CAUSE OF ACTION

THE U.S. ATTORNEY GENERAL MISLED HIS DISCLOSURE MADE CLEARLY ERRONEOUS INTERPRETATION AND CONCLUSION OF LAW AND FACT, AND MISAPPLIED THE FEDERAL MENTAL HEALTH LAWS. THE LAW REQUIRES PHILIPS TO BE HOSPITALIZED. THE FEDERAL GOVERNMENT DOES NOT HAVE A CIVIL HOSPITAL IN WHICH TO CONFINED INSANITY ACQUITTED (FOULKE V LOUISIANA, 1984, 504 U.S. 71, WILLIAMS V RUMMEL 18 C 1473, 431 F.2d 353; DAVIS V RUFORD, 16201, 264 F.2d 86) US V SITARAWI, 122 F.Supp.3d

THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT ALLOWS, OR AUTHORIZES FEDERAL HOSPITALIZATION OR CONFINEMENT. THE ATTORNEY GENERAL HAS ONLY 4 OPTIONS AND ALL THOSE OPTIONS DO NOT INCLUDE ANYTHING FEDERAL (18 U.S.C 4247(i))

THE U.S. ATTORNEY GENERAL MISAPPLIED THE LAW AND PUT PHILIPS IN FEDERAL CUSTODY.

14th CAUSE OF ACTION

THE U.S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY OF PHILIPS AND, CONSEQUENTLY, THE EMPLOYEES OF THE BOP DO NOT HAVE LAWFUL JURISDICTION OR AUTHORITY OVER PHILIPS AND CANNOT TREAT PHILIPS AS A CONVICTED PRISONER (US V JONES, 1983, 463 U.S. 369), BECAUSE HE IS A UNCONVICTED CIVIL MENTAL PATIENT (NOT A CONVICTED PRISONER) ~~HE~~ MUST BE TREATED BY RULES OF A MENTAL HOSPITAL-NOT BY THE RULES OF A PRISON (TYLER V UCCONE, W.D. Mo. 1964, 299 F.Supp. 684; CAMERON V RENFRO, ^{DOUG} 1992, 183 F.Supp. 1511

THE RESPONDENTS REFUSE TO ACKNOWLEDGE THAT PHILIPS IS A UNCONVICTED CIVIL MENTAL PATIENT (AND NOT A CONVICTED SENTENCED PRISONER) AND TREATS HIM WORSE THAN SENTENCED PRISONERS UNDER RULES ESTABLISHED FOR ONLY CONVICTED PRISONERS

THE GO-BACKS FOR THE TREATMENT OF THE MENTALLY ILL IS PRESCRIBED IN 42 USC 10341 AND FOY V GROUNDBURG 1983, 190 CAL Rptr. 84, 141 CA 81. SEE MCWILLIAMS V DORCHESTER COMMUNITY CENTER, D. MASS 1991, 270 F.Supp. 43 AFF 90: F.2d 987

PHILIPS HAS THE RIGHT TO REASONABLE TREATMENT (ANDERSON V COOPERATOR, 1981, 493 U.S. 635; WALTERS V WESTERL, 1970, 864 F.2d 695; SHIELDS V BURDO, 1987, 814 F.2d 1261; CRUCIBURG V SPENCE, 1972, 467 F.2d 172; JOHNSON V US, 1981, 432 A.2d 357; WHITE V NAPOLITANO, 1990, 847 F.2d 103; ORC V WILKINS, 637 F.2d 1017

15th CAUSE OF ACTION:

THE U.S. BUREAU OF PRISONS, AND ITS REPRESENTATIVES, HAVE VIOLATED THE TERMS OF THE AMERICANS WITH DISABILITIES ACT (42 USC 12101), THE EQUALITY ELDER CARE ACT, AND THE BILL OF RIGHTS FOR THE MENTALLY ILL (42 USC 10846).

THEY HAVE TREATED THE MENTALLY ILL WORSE THAN SENTENCED PRISONERS. THEY DO NOT PROVIDE INDIVIDUALIZED CARE OR TREATMENT PARTICULARIZED TO THE TYPE OF DISABILITY AND THE CHARACTER OF THE DISABLED PERSON. THEY DO NOT PRACTICE AN INDEPENDENT ADVOCACY FOR CIVIL PATIENTS. THE ACCOMMODATIONS ARE FOR CONFINED AND SENTENCED PRISONERS NOT FOR THE MENTALLY DISABLED. STAFF IS UNQUALIFIED IN THE CARE OF THE SICKLY AND THE MENTALLY DISABLED PATIENT, AND DO NOT USE PROFESSIONAL JUDGMENT;

PHELPS HAS BEEN ABUSED, MISTREATED, ASSAULTED, THREATENED, TORTURED, AND TERRIFIED BY U.S. BUREAU OF PRISON EMPLOYEES IN HIS 20 YEARS OF INCARCERATION. OFFICERS OF THE BOP HAVE BEATEN HIM WHILE HE WAS RESTRAINED, CARRIED HIM TO A WALL AND SPRAYED HIM WITH FIRE HOSES AND CHEMICAL FIRE EXTINGUISHERS; HANDCUFFED HIM TO A FENCE AT NIGHT IN RAIN, STORMS, SNOWSTORMS, AND SUMMER HEAT, DEPRIVED HIM OF FOOD, CLOTHING, SHELTER, AND MEDICAL CARE, USED INCUBATION ON HIM FOR REASONS OTHER THAN MEDICAL, CONFINED TO ISOLATION, SEGREGATION, AND QUARANTINE WITHOUT ANY LEGITIMATE REASONS AND WITHOUT ANY DUE PROCESS, HANDED HIM DOORS AND FENCES BY HANDCUFFS OR WRISTS OVER THE HEAD WITH FEET OFF THE FLOOR, STRAPPED TO BED IN SOLITARY RESTRAINT FOR 5 DAYS BECAUSE OF BEING 10 MINUTES LATE FOR AN APPOINTMENT AND THEN BURNED WITH LIT CIGARETTES AND HOT COFFEE WHILE IN RESTRAINTS, AND MANY OTHER OUTRAGEOUS ACTS OF TORTURE WHICH WAS NOT VIDEOTAPED - BUT ADMITTED TO. ONE NEW DOCTOR READ PHELPS RECORD AND TRIED TO MURK PHELPS BY DIAGNOSING PHELPS AS A DIABETIC AND CLAIMING IT WAS HIS DUTY TO SAVE PHELPS LIFE WITH INSULIN (THE U.S. MARSHALS FORCED PHELPS TO TAKE HIM TO COAST OUTWIT JUST 15 MINUTES BEFORE THE SCHEDULED INJECTION). ALL THIS ABUSE IS DOCUMENTED - AND MORE! YET, IN ALL HIS 20 YEARS PHELPS HAS BEEN DENIED. ALL HIS DEFENDANT WAS AN INVESTIGATION FOR SICKNESS - MOSTLY FOR FILMING EVIDENCE OF THE ABOVE IN COURT.

16th CASE OF PITELA

WHEN PITELA ENTERED THE INSTITUTION, HE HAD NO PERSONAL PROPERTY BECAUSE THE B.C.P. WOULD NOT ALLOW HIS PROPERTY TO BE TRANSPORTED WITH HIM EVEN THOUGH HE WAS TRANSPORTED ON A PRIVATE JET AIRCRAFT AND THERE WAS AMple ROOM FOR THE PROPERTY.

ONE MONTH LATER THE PROPERTY ARRIVED FROM HIS PREVIOUS PRISON AT BURNER COUNTY, OKLAHOMA. SEVERAL ITEMS WERE NOT ALLOWED SIMPLY BECAUSE THEY WERE NOT SEEN TO INMATES AT DEVEN'S (BUT WAS SEEN TO INMATES AT BURNER). THE WARDEN'S POLICY IS "IF WE DON'T SEE IT HERE - YOU DON'T HAVE IT."

PITELA HAD IN HIS POSSESSIONS BIBLE LESSONS WHICH THE OFFICERS DEDICATED TO PITELA HE HAD BECAUSE OF ITS RELIGIOUS CONTENT. ALL THE LESSONS WERE RELIGIOUS AND WERE LESSONS ON THE SCRIPTURE OF THE CHRISTIAN HOLY BIBLE, AS RELATED TO SOCIETY, GOVERNMENTS, PEOPLE, CULTURE, AND WORLD EVENTS.

NOTHING IN THE LITERATURE ADDRESSED THE DISRUPTION OR OPERATION OF THE INSTITUTION. THE REJECTION VIOLATED PITELA'S 1ST, 5TH, AND 9TH (COMMON LAW) RIGHTS AS WELL AS HIS RIGHTS UNDER 42 USC 2000bb - 2000bb-4 (RELIGIOUS FREEDOM RESTORATION ACT) BECAUSE HIS RELIGION TEACHES HE MUST STUDY TO SHOW HIMSELF APPROVED OF GOD (2 TIMOTHY 2:15; 1 THESALONIANS 4:11) (See BRYANT V. LONG, 901995, 46 F3d 948; HERNANDEZ V. COMMISSIONER, 1988, 490 US 680, BLOCK V. BENTONFORD, 184468 US 576); THE GOVERNOR ALSO VIOLATED THE RELIGIOUS RIGHTS PROTECTED BY PENNSYLVANIA RELIGIOUS FREEDOM (42 USC 2000cc)

CAN A INSTITUTION, OR FACILITY, IMPOSE CONDITIONS AND RESTRICTIONS UPON A PRISONER IF WHILE IT DOES NOT HAVE CUSTODY? CAN PRISON RULES BE APPLIED TO CIVILIAN CIVIL MEDICAL PATIENTS WHICH INTERFERE WITH THE PATIENTS RELIGIOUS BELIEFS.

THE PRISON ALLOWS THE ALI WITH TEACHINGS OF ISLAM, MORMON, SIKH, TEMPLE, BAPTIC, HINDU, BAPTISTS, RASTAFARIANS, ETC BUT WILL NOT ALLOW TEACHINGS OF WHITE RACIAL PURITY (See McCORBY V. ARKANSAS, 901987, 827 F2d 634-7638 - ADJUDGING RACIAL PURITY IS INSUFFICIENT TO JUSTIFY CONFINEMENT)

17th CAUSE OF ACTION:

DOES A UNCONVICTED CIVIL MENTAL PATIENT HAVE A GREATER RIGHT OF PRIVACY THAN CONVICTED AND SENTENCED PRISONERS?

PATIENTS WHO HAVE NO PRIORITY AT ALL IN THE B.C.P. SYSTEM, UNDER RULES ALLOWING THEM TO BE TREATED AS A CONCERNED PATIENT (28 CFR 511.101(e)(2) AND B.C.P. POLICY 7330.1) PATIENTS, AND AS A RESULT, THE PROPERTY CAN BE SEIZED AT ANY TIME UNDER ANY CIRCUMSTANCES, FOR NO REASON OR FOR ANY REASON AT ALL (AND THIS ISN'T).

THE PITONE CARS ARE MONITORED AND RECORDED. ALL THE DOCUMENTS ARE MONITORED BY VIDEO SURVEILLANCE CAMERAS, HIS PERSONAL AND WORK MAIL IS OPENED, INSPECTED, READ, PHOTOCOPIED, AND INTERFERED WITH - WITHOUT DUE PROCESS.

MAIL FOR UNCONSCIOUS INMATES CANNOT BE DELIVERED IN THE SAME MANNER AS MAIL FOR CONSCIOUS PRISONERS. MAIL CAN BE SIGNATURED OR SUBMITTED IN THE SAME REQUIREMENTS.

(50035 *C. wittensteini* NSC.HC 1971, 323 FSupp 43, 332 FSupp 107, 412 FSupp 66, 426 FSupp 745) 451 F2d 854

THE UNCONSOLIDATED CIVIL MENTAL PATIENT HAS THE RIGHT TO SEND AND RECEIVE MAIL AS ANY
FREE WORLD CITIZEN (THOMAS C. LEE, 404 F.2d 1169, 249 F.Supp. 184 (1965)) AND SOONER OR
LATER THE MAIL OF A UNCONSOLIDATED CIVIL MENTAL PATIENT (GUAYAQUIL V. ESTELLO, 1978, 532 F.2d 178)
THE PRIVACY RIGHTS OF A CIVIL COMMITMENT PATIENT CAN ALSO BE ABROGATED BY THE STATE OF CONNECTICUT
(ELLEN V. HARRIS, 1981, 736 F.2d 336) AND ALSO BY THE STATE OF PENNSYLVANIA,
542 F.2d 493, WILMINGTON & DELAWARE, 318 F.2d 459; LAUREN V. MATTINGLY, 469 F.2d 333;
BRUNELLO V. PICHETTO, 50-1925, 319 F.Supp. 1225; HOPKINS V. GALLUCCIO, 441 F.2d, 543 AND
441 F.Supp. 331; HARDWICK V. RUE, 433 F.2d 473, 447 F.Supp. 116; WILMINGTON V. LAMM, 485 F.Supp. 224,
522 F.Supp. 1057, 534 F.Supp. 132, 713 F.2d 546).

18th Course of Action

SUMMARY AND CONCLUSION

1. FIRST THE COURT MUST DETERMINE ITS OWN JURISDICTION (STEELCO V. CITIZENS, 1998, 523 U.S. 83 AT 94). A COMPLAINING PARTY ALLEGES VIOLATIONS OF LAW AND THIS CONSTITUTES SUES THE COURT JURISDICTION (SELL V. KODAK, 1946, 327 U.S. 678, BIGEWS V. SILENTED ARMED AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION, 1971, 403 U.S. 533; ALEXANDER V. COMMISSIONER, DEC 1987, 825 F2d 499 AT 502 (COURT HAS INHERENT POWERS TO ACT IN THE INTEREST OF JUSTICE); IF THE COURT HAS JURISDICTION, IT MUST
2. DETERMINE IF 18 USC 4243 CAN BE APPLIED TO PHILIPS AND THAT REQUIRES A STATUTORY ANALYSIS. WORDS OF A STATUTE MUST BE GIVEN THEIR PLAIN MEANING (CAMP, WOOD V. U.S., 1877 242 U.S. 470 AT 485) AND TO LOOK TO THE INTENT OF CONGRESS (NECESSITY IMMUNE, 1993 507 U.S. 19 AT 10). THE STATUTE REQUIRES A CRIMINAL ACT BEFORE IT CAN BE APPLIED (WILLIAMS V. U.S., 116 1984, 734 F2d 1434). IF PHILIPS DID NOT COMMIT A CRIME (AND THE GOVERNMENT HAS ADMITTED HIS DISMISS) THEN THE LAW IS MISAPPLIED AND THE MATTER ENDS BECAUSE WITHHELD INFORMATION IS UNACTIONABLE. IF PHILIPS IS LIASTABLY UNDER THE JURISDICTION OF 18 USC 4243, THEN THE COURT MUST
3. DETERMINE IF THE U.S. ATTORNEY GENERAL MISAPPLIED THE LAW: COURTS CAN REVIEW DECISIONS WHERE THERE IS A MISAPPLICATION OF LAW OR A MISAPPLY OF THE WRITTEN LEGAL STANDARDS (PURPOSE PRACTICITUDI V. BELL, 10 1981, 641 F2d 1006 AT 1007) IF THE ATTORNEY GENERAL MISAPPLIED THE LAW, THE COURT CAN END THE ENQUIRY BECAUSE EVERYTHING AFTER THAT IS UNACTIONABLE. IF HE DID NOT, THE CO. AT MUST
4. DETERMINE IF THE U.S. BUREAU OF PRISONS HAS LAWFUL CUSTODY OF PHILIPS. A PERSON CANNOT BE INCARCERATED ABSENT A CONVICTION (GATES V. MCGOWAN, 1979, 443 U.S. 137 AT 144; 18 USC 4041(c)) AND WHEN THE BOP IS NOTIFIED THAT A PERSON MAY BE FEDERALLY INCARCERATED, THE BOP HAS A DUTY TO INVESTIGATE THE VALIDITY OF THE INCARCERATION (METTINGE V. CITY OF LA, 90 1988, 141 F3d 1373 AT 1381)
5. WITHIN THE BOP WAS NOTIFIED IN 1992 THAT Philips DID NOT COMMIT NO CRIMES, IT DID NOTARY. IF THE BOP HAS LAWFUL CUSTODY OF PHILIPS, THE COURT MUST
5. DETERMINE IF THE BOP EMPLOYEES HAVE LAWFUL JURISDICTION AND AUTHORITY TO ACT. A STATUTE

CANNOT grant jurisdiction without THE CONSTITUTIONAL FORBIDS IT (GILSON v. REPUBLIC OF CUBA, DCC 1982, 682 F2d 1022 AT 1028).

IF THE EMPLOYEES HAVE NO LEGAL AUTHORITY TO ACT, THEY CANNOT

THEY DO IS LAWFUL. IF THE EMPLOYEES HAVE JURISDICTION, THE COURT MUST

6. DETERMINE IF THE EMPLOYEES HAVE PROPERLY APPLIED THE LAWS AND BOP RULES. RULES MUST BE BASED ON STATUTORY AUTHORITY (DUO. DISCH v. DC, DC 1982, 562 A2d 107) AND WORKS SHOULD NOT THREATEN TO STRIKE DOWN BOP RULES THAT ARE UNCONSTITUTIONAL (SMITH v. SIMONSEN, 1972, 349 FSupp 268)

IF RULES REGULATE EMPLOYEE CONDUCT, AND EMPLOYEES VIOLATE THOSE RULES, THERE IS NO SHIELD FROM LIABILITY (CITIGROUP v. US, 1991, 145 F3d 113 US 335). IF A RULE IS IN CONFLICT WITH A LAW

IT IS UNCONSTITUTIONAL (US v. HECKER, 102 2001, 238 F3d 222 AT 123) 28 CFR 551.101 IS IN CONFLICT WITH 18 USC 4243 AND US v. JONES, 1983, 463 US 354. IF THE RULES ARE PROPER -

7. THE COURT MUST DETERMINE IF THE ACTIONS OF THE EMPLOYEES ARE LAWFUL, THE EMPLOYEES MUST BE QUALIFIED AND MUST ACT PROFESSIONALLY (YOUNGBERG v. RABIDEAU, 1982, 457 US 307). THE EMPLOYEES KNOW THAT THEY CANNOT TREAT PETERS AS A CONSCIENT PRISONER (LOCK v. JENKINS, 7C 1981, 641 F2d 488) AND MUST TREAT HIM BETTER (HAMILTON v. COPE, 328 FSupp 1131) AND MUST MAKE PROFESSIONAL JUDGMENTS (SANTARE v. VELAZQUEZ, 1C 1986, 793 F2d 41), IF THE EMPLOYEES ARE NOT ACTED PROPERLY OR LAWFULLY, THE COURT MUST

8. DETERMINE THE LEVEL OF INJURY IMPLICATED ON PETERS, AND

9. THE AMOUNT OF DAMAGES TO AWARDED FOR VIOLATING PETERS' 1ST, 4TH, 5TH, 8TH, 9TH AMENDMENT RIGHTS UNDER THE U.S. CONSTITUTION AND FOR VIOLATING THE PROVISIONS OF 18 USC 240-242, 18 USC 4243 AND 4247, 18 USC 4001(a), 42 USC 10341, 42 USC 2000b-2000c, 42 USC 12101, 500552-5526 OTHER FEDERAL LAWS, FEDERAL REGULATIONS, BUREAU OF PRISON RULES AND POLICIES, CODE OF ETHICS AND EMPLOYEES CONDUCT, COMMON LAW, AND SUPREME COURT LAW, AND FOR Causing irreparable PHYSICAL, MENTAL, EMOTIONAL, AND SPIRITUAL LOSS, HARM, INJURY, ANXIETY, DISTRESS, PAIN, AND SUFFERING.

PRAYER AND RELIEF

PHILIPS PRAYS THAT THIS COURT RECOGNIZES THAT PHILIPS IS A UNCONVICTED CIVIL MENTAL PATIENT (NOT A CONVICTED CRIMINAL PRISONER) AND THAT THE COURT USES THE STANDARDS OF "PATIENTS RIGHTS" AND NOT PRISONERS RIGHTS AS EXAMINED IN U.S. V. JONES, 1981, 516 A2d 183, 411 A2d 624, 432 A2d 364, 463 U.S. 354; YOUNGBLOOD V. ROMEO, 1982, 457 U.S. 327; PARNHAM V. JR. 1974, 442 U.S. 584; FOUCHER V. LEONARD, 1972, 504 U.S. 71, PENHURST V. HAROLD PARK, 1974, 451 U.S. 351; MENKEL V. PENHURST HOSPITAL, 1972, 407 U.S. 245; HUMPHREY V. CODY, 1972, 405 U.S. 584; RODHE V. KLEIN, 1979, 458 U.S. 119; OCOWICE V. DONALDSON, 1982, 422 U.S. 563; DESHANEY V. COLUMBIA, 1989, 489 U.S. 189; CHESLITH HOSP. V. N.Y., 1992, 681 F2d 1132, U.S. TRUST V. NJ, 1973, 431 U.S. 1; BATTLE V. ANDERSON, 1974, 376 F.Supp. 404, 457 F.Supp. 719, 447 F2d 516, 564 F2d 388; 594 F2d 284, 614 F2d 251; SOCIETY OF JESUIT, 731 F2d 1234; UCC V. UCC, 1984, 729 F2d 96 AND OTHER CASES INVOLVING NON-PRISONER CIVIL PATIENTS;

PHILIPS PRAYS THAT THIS COURT FOLLOWS THE ADMISSIONS OF THE COURT IN ROMEO V. YOUNGBLOOD, 1982, 644 F2d 147 AFF. 457 U.S. 327 THAT IT CANNOT TAKE CASE-LAW DECISIONS FOR CONVICTED PRISONERS AND APPLY THESE DECISIONS TO CIVIL COMMITMENTS;

PHILIPS PRAYS THAT THIS COURT USES THE TOTALITY OF CIRCUMSTANCES STANDARD IN ASSESSING THE CONDITIONS OF CONFINEMENT

PHILIPS PRAYS THE COURT USES THE HIGHEST SECURITY STANDARDS IN INTERPRETING THE LAW'S ABSOLUTE STANDARD.

PHILIPS PRAYS FOR RELIEF AND REENTRY.

PHILIPS PRAYS FOR DECISIVE JUDGMENT AND REQUEST THE COURT TO DECIDE;

- PHILIPS DOES NOT FALL UNDER THE JURISDICTION OF 18 U.S.C. 4243 IF HE IS ACTUALLY INNOCENT AND DID NOT COMMIT A CRIME BECAUSE THE STATUTE REQUIRES A CRIME TO HAVE BEEN COMMITTED;

1. THE FEDERAL GOVERNMENT DOES NOT HAVE A CIVIL HOSPITAL IN CAPTIVITY TO CONFINING FEDERAL INSANITY AUTHORITIES AND 18 USC 4243 REQUIRES "HOSPITALIZATION";
2. THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT ALLOWS, OR AUTHORIZES, FEDERAL CONFINEMENT OF INSANITY AUTHORITIES OR OTHER FEDERAL CIVIL COMMITTEES;
3. THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION, MADE CLEARLY ERRONEOUS INTERPRETATIONS, AND CONCLUSIONS OF LAW AND FACT, AND THEN MISAPPLIED THE PROVISIONS OF 18 USC 4243 AND 18 USC 4247;
4. NEITHER THE COURTS NOR THE U.S. ATTORNEY GENERAL HAVE LAWFUL JURISDICTION OR AUTHORITY TO COMMIT INSANITY AUTHORITIES TO THE CUSTODY, AND CONFINEMENT, OF THE U.S. BUREAU OF PRISONS;
5. THE U.S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY, JURISDICTION, OR AUTHORITY OVER PRISERS OR ANYONE COMMITTED UNDER 18 USC 4243 OR 18 USC 4246;
6. EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS (REGULAR OR UNDER CONTRACT) DO NOT HAVE LAWFUL CUSTODY, JURISDICTION, OR AUTHORITY OVER PRISERS OR ANYONE SUBJECT TO 18 USC 4243 OR 18 USC 4246; THEY ACTED IN ABSENCE OF ANY, AND ALL, JURISDICTION;
7. EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS ARE NOT LEGALLY QUALIFIED TO CARE FOR, OR TREAT PRISERS OR ANYONE SUBJECT TO 18 USC 4243 OR 18 USC 4246;
8. THERE IS A LEGAL AND CONSTITUTIONAL DIFFERENCE BETWEEN UNCONVICTED CIVIL MENTAL PATIENTS AND CONVICTED CRIMINALLY SENTENCED PRISONERS AND UNCONVICTED CIVIL PATIENTS CANNOT BE TREATED AS CONVICTED OR SENTENCED PRISONERS;
9. UNCONVICTED CIVIL PATIENTS HAVE MORE RIGHTS AND PRIVILEGES THAN PECTENATE DETAINES OR CONVICTED PRISONERS;
10. UNCONVICTED CIVIL MENTAL PATIENTS HAVE, AT LEAST, THE SAME, OR GREATER, RIGHTS OF A PERSON IN HOME CONFINEMENT;
11. UNCONVICTED CIVIL MENTAL PATIENTS CANNOT BE SUBJECTED TO THE RULES AND REGULATIONS OF A JAIL OR PRISON AND MUST HAVE THEIR OWN SPECIFIC PARTICULARIZED SET OF RULE AND REGULATIONS DESIGNED TO PROMOTE HEALING, RECOVERY AND REHABILITATION;

13. THE SUPERVISORY STAFF OF THE U.S. BUREAU OF PRISONS FAILED TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE SUBORDINATE B.C.P. MEMBERS IN THE CARE, TREATMENT, AND PROVIDING SERVICES FOR UNCONSCIOUS CIVIL MENTAL PATIENTS
14. THOSE COMMITTED UNDER 18 USC 4243 OR 18 USC 4246 MUST BE TREATED AS PATIENTS - NOT PRISONERS; ALSO HAVE A ADVOCACY - 3605 42 USC 10306
15. PHELPS SUFFERED UNLAWFUL AND UNCONSTITUTIONAL ABUSE AND MISTREATMENT BY U.S. BUREAU OF PRISON EMPLOYEES AND MEMBERS;
16. PHELPS HAS BEEN UNLAWFULLY AND UNCONSTITUTIONALLY INCARCERATED AND IMPRISONED IN THE U.S. BUREAU OF PRISONS
17. PHELPS HAS SUFFERED A DEPRIVATION, DENIAL, AND VIOLATION OF HIS CONSTITUTIONAL, STATUTORY, CIVIL, AND COMMON LAW GUARANTEES, FREEDOMS, LIBERTIES, RIGHTS, PRIVILEGES, IMMUNITIES, PROTECTIONS, AND SAFEGUARDS
18. THE RESPONDENTS KNOW THE CONSTITUTION AND LAWS, AND UNDERSTOOD THE CONSTITUTION AND THE LAWS, BUT STILL KNOWINGLY, INTENTIONALLY, AND WILLINGLY ACTED CONTRARY TO THE CONSTITUTION AND THE LAWS; AND ACTED WITHOUT PROFESSIONAL JUDGEMENT,
19. THE RESPONDENTS CAUSED PHELPS IRREPARABLE PHYSICAL, MENTAL, EMOTIONAL, AND SPIRITUAL LOSS, HARM, INJURY, ANXIETY, DISTRESS, PAIN, AND SUFFERING;
20. PHELPS HAS SUFFERED A MISCHIEF OF JUSTICE AND A MANIFEST INJUSTICE AND BODILY HARM COMPENSABLE UNDER THE CONSTITUTION AND THE LAWS;
21. PHELPS IS A PATIENT - NOT A PRISONER AND LAWS AND RULES FOR PRISONERS DO NOT APPLY TO HIM.

PHELPS PRAYS FOR PUNITIVE DAMAGES IN THE AMOUNT OF TWO MILLION (2,000,000) TWENTY FIVE DOLLARS FROM EACH RESPONDENT;

PHELPS PRAYS FOR ATTORNEY FEES AND COST;

PHELPS PRAYS FOR INJUNCTIVE RELIEF ENJOINING THE B.C.P. FROM CONFINING ANY PERSON SUBJECT TO THE PROVISIONS OF 18 USC 4243 OR 18 USC 4246;

PHELPS PRAYS FOR ANY OTHER RELIEF AND REMEDY THE COURT DEEMS FAIR, JUST, PROPER, FAIR AND EQUITABLE TO PROMOTE JUSTICE, TO PREVENT A MISHANDLING OF JUSTICE, AND TO MEET THE ENDS OF JUSTICE.

RESPECTFULLY SUBMITTED ON THIS 30TH DAY OF JANUARY, 2005

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

FMC - DEVENS

42 Pattern Road

P.O. BOX 879

AYER, MA 01432

CERTIFICATION

I, COY PHELPS, CERTIFY UNDER PENALTY OF PERJURY, PURSUANT TO 28 USC 1746, THAT
I AM THE PETITIONER IN THIS ACTION AND THAT ALL THE STATEMENTS MADE HEREIN
WERE MADE BY ME, AND THAT ALL THE STATEMENTS ARE TRUE AND CORRECT
ACCORDING TO MY BEST KNOWLEDGE AND BELIEF

DATE: 1-30-2005

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

FMC- DEVENS

42 Pattern Road

P.O. BOX 879

AYER, MASSACHUSETTS

01432

CERTIFICATE OF SERVICE

SEE THE SERVICE INFORMATION ON THE REVERSE SIDE OF THE SUMMONS

Coy Phelps

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COY PHELPS

CASE NO:

PETITIONER

-v-

DAVID WINN, ET AL.

NOTICE OF
LAWSUIT

RESPONDENT(S)

TO: 42 PATTON ROAD, P.O. BOX 830, AYER, MA 01432
FROM: COY PHELPS 78872-011, FMC DEVENS, P.O. BOX 879, AYER, MA 01432

PLEASE TAKE NOTICE

THAT ON (OR AS SOON AS POSSIBLE THEREAFTER) THE DATE APPEARING BELOW, YOU WILL BE
SUED (IN THE ABOVE COURT) FOR A PERSONAL INJURY AND CIVIL RIGHTS VIOLATIONS,
IN WHICH COY PHELPS IS A VICTIM OF YOUR ACTS, ACTIONS, INACTIONS, OR OMISSIONS.

DATE:

By Plaintiff

IN PRO SE

COY PHELPS 78872-011

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSCO^Y PHELPS

CASE NO.

PETITIONER

-v-

RETURN

DAVID WINN, et.al.

RESPONDENT(S)

TO:

EMCNEEVENS, 42 PATCH ROAD, P.O. BOX 880, AYER, MA 01432

ENCLOSED IS A COPY OF A COMPLAINT, NOTICE OF LAWSUIT AND A SUMMONS TOGETHER WITH 2 COPIES OF THIS RETURN AND A SELF ADDRESSED ENVELOPE. PLEASE KEEP ONE COPY OF THIS RETURN FOR YOUR RECORDS AND RETURN THE OTHER TO CO^Y PHELPS 78872-011 AT P.O. BOX 879, AYER, MA 01432. BY SIGNING THIS RETURN YOU ARE NOTIFYING THE ABOVE PETITIONER THAT YOU RECEIVED THE ABOVE DOCUMENTS AND THAT YOU DO NOT WAIVE OR SURRENDER ANY RIGHTS OR DEFENSES.

DATE:

CO^Y PHELPS 78872-011

I CERTIFY I RECEIVED A COPY OF A COMPLAINT, NOTICE, AND SUMMONS IN THE ABOVE CASE.

DATE:

SIGNATURE:

PRINTED NAME: